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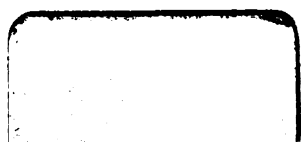
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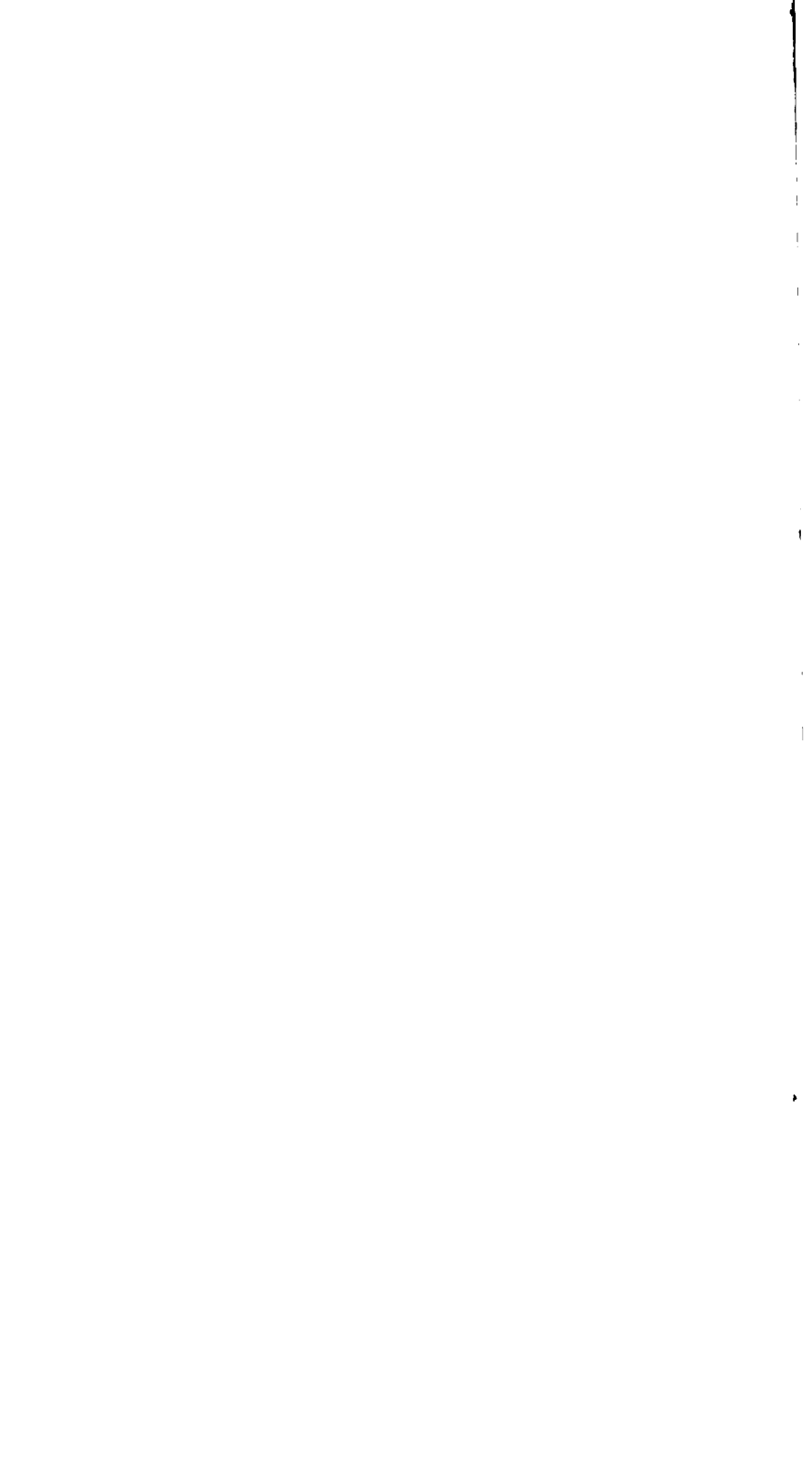


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A  
VIEW  
OF THE  
JURISPRUDENCE  
OF THE  
ISLE OF MAN:

WITH THE  
HISTORY OF ITS ANCIENT CONSTITUTION,  
LEGISLATIVE GOVERNMENT,  
AND  
EXTRAORDINARY PRIVILEGES;

TOGETHER WITH  
THE PRACTICE OF THE COURTS,  
&c. &c. &c.

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BY J. JOHNSON, ESQ.

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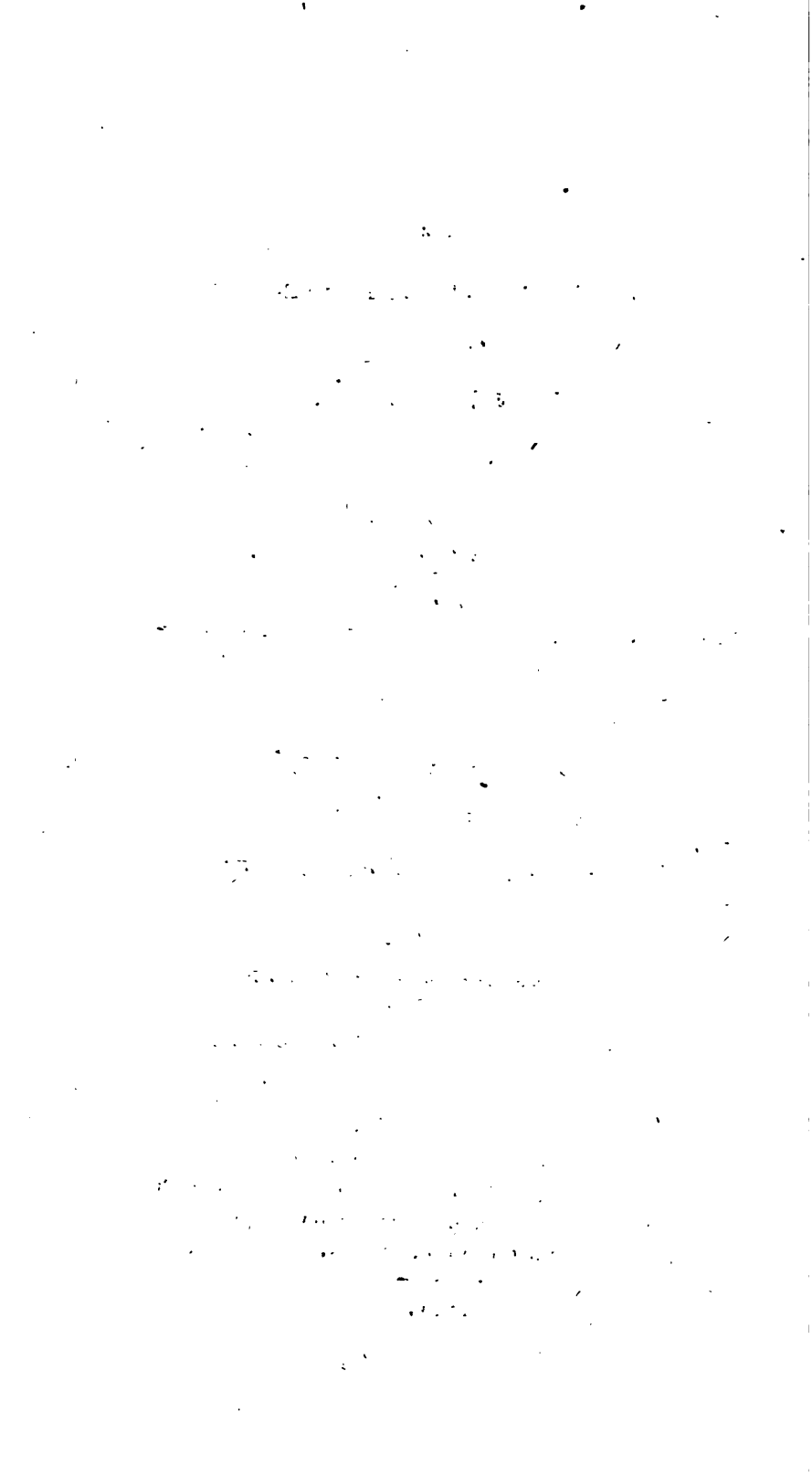
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1811.



TO  
THE MOST PUISSANT PRINCE,  
JOHN DUKE OF ATHOLL,  
*&c. &c. &c.*

THIS VIEW OF THE  
LAWS OF AN ANCIENT KINGDOM,

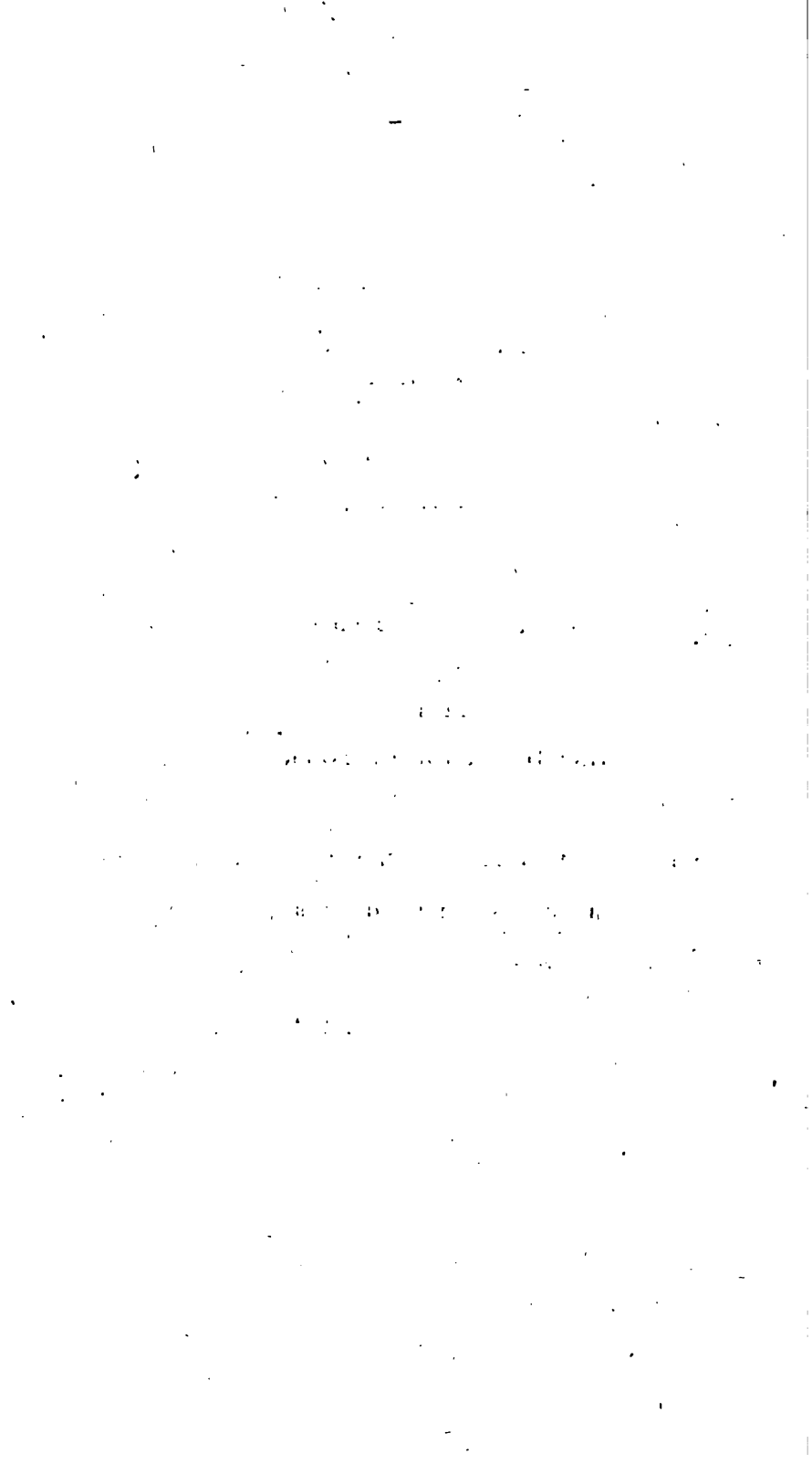
FOR  
CENTURIES SEDULOUSLY PROTECTED AND CHERISHED  
UNDER THE AUSPICIOUS DOMINION

OF HIS  
ILLUSTRIOUS ANCESTORS,

IS,  
WITH GREAT DEFERENCE AND RESPECT,

INSCRIBED, BY HIS GRACE'S  
MOST OBEDIENT AND DEVOTED SERVANT,

THE AUTHOR.



## ADVERTISEMENT.

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It is a singular fact, that, in the present age of active inquiry, there should be in the midst of the British European dominions an isolated spot retaining its primitive constitution, the peculiar characters of which are scarcely known beyond the narrow space over which their influence extends. That such a country, and such a constitution do actually exist, is pretty generally known, yet few or none have deemed any investigation of the peculiarities of either worthy of notice, except in those points to which personal danger and impending ruin may have imperiously called for attention. The Isle of Man presents to us the singular phenomenon alluded to. Surrounded on every side by the British empire, and being itself an appendage to the British crown, it retains its



early constitution and laws, unaffected by the various revolutions which have taken place in the adjacent kingdoms. This very circumstance, it might fairly have been expected, would have roused the spirit of curiosity; but, if it ever has produced this effect, the public have not reaped the fruits. The means of information are in consequence very limited, for (with the exception of a valuable alphabetical arrangement of the Statutes and Ordinances of the Island, by the present Clerk of the Rolls), they are confined to the legislative body in the Island, the legal practitioners, and to such persons as by actual residence have the power of attending the Courts, and of examining the various records that are to be met with. It is therefore evident that a compilation of the insular Laws, and some history of the Constitution, is much required; and that, if executed with tolerable accuracy, it would form a valuable accession to the stores of legal lore accumulated in our own country. During a residence of some length in the Isle of Man, the Author of the following "VIEW OF MANKS JURISPRUDENCE" attended the Courts, and collected a great variety of facts on these points, which he has been since induced to arrange and condense into the form, in which he now ventures to lay it before the pu-

blic. With all the anxious solicitude inseparable from such an undertaking, the Author fondly hopes, that he may meet the wishes of those who have fostered this Work, and, that whatever may be its defects, inaccuracy will not be found in their number.

To the public at large, whose interests are not immediately affected by its object, he offers it as a curious relict of antiquity ;—by the professors of the law in the united empire, he presumes to hope it will be considered not only curious but useful.

Should this “View of Manks Jurisprudence” produce the ends which the Author of it has proposed to himself, the first wish of his heart will be fulfilled, and he will delight in having sacrificed his feelings for the advancement of general and useful knowledge.

The Author cannot conclude these prefatory remarks, without expressing his deep obligations to those professional Gentlemen whose encouragement cheered, and whose assistance softened his labours. It were the height of ingratitude to omit the name of the Honourable Thomas Stowell, the Clerk of the Rolls in the Isle of Man, whose talents, erudition, consummate knowledge of the language, customs, and laws of his native soil, and, above all, his unbounded benevolence, eminently qualified him

to aid and direct those efforts by which the present volume was produced.

To John Cæsar Gelling, and John Llewellyn, Esquires, the Author begs leave to make this public acknowledgement for the readiness with which they afforded much valuable information.

# VIEW

OF

## MANKS JURISPRUDENCE, &c.

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*Of the ancient Laws and Constitution of the Isle of Man, with reference to the authority of the Druids; and the prerogatives of its Kings and Lords.*

THE laws and institutions of Cæsar's Mona\*, derive their origin from the aristocratical learning of the Druids, in the remote periods of Celtic antiquity.

It is asserted by historians, that, in the year 277, Mona, being then under the dominion of Scotland, Cratilinth, a thane of that kingdom, was sent from thence to take upon himself the crown †.

\* Called Monabia by Pliny, Menow by the ancient Britons, Manning by the natives.---Camden. And Euhonia by Buchanan.  
an.

† Hector Boethius. A. B. Spottiswood, lib. 1. sq. 3.

On his arrival in the island, he found the country entirely under the control of the Druids; who, since the time of their having been driven from Anglesey by the Romans, about the year 60\*, had acquired, by their superstitious rites and ceremonies, their philosophical learning †, and moral conversation, the greatest influence and authority over the people, by whom they were held in high respect and veneration.

Although the Druids celebrated human sacrifices, and performed their religious rites in groves, sacred to the oak, from whence, according to Pliny, they were called Druids ‡: yet they taught that there was only one God, and that it was not lawful to represent him in any image; that the souls of men did not perish with their bodies, but that, after death, they were rewarded according to their works.

The Druidical institution first took rise in Britain, and passed from thence into Gaul; so that they who aspired to be thorough masters of that learning, were wont to resort to Britain. Such as were to be initiated among the Druids, were obliged to commit to their memory a great number of verses, insomuch

\* Bishop Wilson.

† Mona, or Eubonia, was the fountain of learning and erudition, and was the royal academy for educating the heirs-apparent of the crown of Scotland.—Boethius and Hollingshed.

‡ The etymology of the word is doubted by the learned. Gropius Becanus says, that Druid is derived from the British or Celtic words *tru* and *wis*, signifying a wise man. The Druids are believed to be the same order as the Eastern Magi. Brown, in his Dissertation about the Mona of Cæsar and Tacitus, demonstrates that the Druids came from the East, and that the Isle of Man is Cæsar's Mona.

that some employed twenty years in this course of education: they did not think it lawful to record these verses in writing, but sacredly handed them down by tradition from race to race\*.

The Druids lived together in colleges or societies, after the Pythagorean manner, and philosophising upon the highest subjects, asserted the immortality of the human soul†. They possessed, from very remote ages, an excellent system of discipline and manners, and there flourished among them the study of the most laudable arts‡, which appears to have had a deep and lasting influence over the ancient Celtæ, a great and mighty people, whose dominion extended over all the west of Europe.

The Druids had not only introduced and established in the island their own religion, laws, and ceremonies, for which they had been so highly celebrated, but had assumed, exclusively to themselves, the decision of all controversies, whether of a public or private nature; and the people cheerfully attended the priest and magistrate from the altar to the tribunal; but whoever refused to abide by their judgment, was afterwards interdicted from being present at their solemn sacrifices and holy rites, which was considered by the people as

\* Caesar's Commentaries, Strabo, Pliny.

† This doctrine had been long received in the east, before it got any footing in the north-west parts of the world....Strabo, Lucan.

‡ Ammianus Marcellinus.

the most grievous punishment ; such, indeed, was their fear and love for this eminent order of men, that Cratilinth and his successors found it extremely difficult to annihilate or expel them.

But amidst all the darkness in which very remote ages must necessarily involve the early periods of legal learning ; and after the Emperor Claudius had abolished the religion of the Druids in Gaul \*, viz. about the commencement of the fourth century, this celebrated order became wholly extinct, and the feudal system, which was planted in Europe by its Northern Conquerors, at the dissolution of the Roman Empire, was universally established in Mona. From that period, the whole body of the people, at the will of their chief, were convened at a place near the centre of the island, immemorially called the Tynwald Hill ; from the Danish word Ting, (Forum judiciale) and Wald, fenced †, where every subject was expected to appear, in order to receive at stated periods the pleasure of his prince. This Court was always held *sub dio*, after the ancient manner of all the northern nations, where the king or lord, seated on the summit of a mount, or venerated barrow, and attended by the chiefs and elders of the land, promulgated his laws and ordinances, which were received by the surrounding multitude with awful silence and attention.

\* Suetonius.

† Bishop Wilson.

The above mode of publishing laws was observed in the neighbouring kingdom of Ireland; for we learn from Baron Finglas's breviary of that kingdom, that, "the laws and statutes, made by the Irish on their hills, they keep firm and stable, without breaking them for any favour or reward;" and in the Western Isles, "the barons, assisted by the chief men in the community, held their courts on the top of a hill called *Cnoc an Eric*, viz. the *Hill of Pleas* \*."

The paucity of Manks history throws only a faint gleam of light on the first legislators of this country, for the most ancient records were removed to Drontheim in Norway by Maude or Matilda, a princess of the ancient race, in the year 1292, and were afterwards destroyed by fire; what few remained in the island were carried away by the illustrious Countess of Derby (who retained the glory of being the last person in the three kingdoms, and in all their dependent dominions, that submitted to the victorious Commonwealth †), and from whom his Grace the Duke of Atholl is lineally descended.

It is understood in the island, that Mannan Maclear was the prince, and first great legislator of the Marks. It is believed that this chief flourished in the beginning of the fifth century, and was the son of a king of Ulster, and brother to Fergus the Second, who restored the kingdom of Scotland in 422. The subjects of this Manks prince entertained so great an

\* Macqueen on the Western Isles.

† Hume, Hist. Eng.



opinion of his learning and abilities, that they attributed these attainments to some supernatural agency; and he was by them deemed, like Zoroaster or Numa, a magician. The Manks, to this day, entertain a great veneration for this chief. In their ancient records they called him a paynim, and superstitiously affirmed, that, at his pleasure, he kept, by necromancy, the land of Man under mists, and, to an enemy, could make one man seem an hundred.

About this period St. Patrick landed in Mona\*, and, after labouring in the introduction of Christianity, he left Germanus, a canon of the Lateran, in the words of Jocelinus, “*ad regendum et erudendum populum in fide Christi.*”

We learn, both from the antiquities of Glastonbury and Harding’s Chronicle, that about the year 520, King Arthur conquered the Isle of Man, which he afterwards restored to the native prince. These chronicles do not mention the name of this prince, but it is highly probable he was father to Brennus, or, as he is styled by Buchanan, “*Brendinus Regulus Eubonia,*” and nephew to Aydan, King of Scotland, who was slain in 594, when fighting for his uncle at the head of his Manks men against the Picts. Soon afterwards Eugenius the Fifth, the son of Aydan, obtained the crown of Scotland; and, in memory of his education in the island, and the kind reception he had found there, sent his three sons, Fer-

\* Jescelin, *vita Pat.* c. 92; A. D. 447. Usher’s *Antiq.* p. 644.

guard, Fiacre, and Donald, to be educated under Conanus, bishop of the Isle\*. It is recorded to the honour of the Manks prince, that he was admitted one of the celebrated Knights of the Round Table. So associated, it is highly probable that he would derive instruction, not only in the romantic laws of chivalry and honour, which the ambition and peculiar character of the times had learned to practise and improve, but also in the great principles of legislative government, then in its infancy, and which Alfred the Great, after he had attained the meridian of glory, so happily matured.

With respect to the celebrated trial by jury, which polity was afterwards improved and established in England, by the superior genius of Alfred, that tribunal was coëval with, and interwoven in the feudal constitution, and universally established amongst all the northern nations†, and, consequently, was not only used, but esteemed a privilege of the most extensive and beneficial nature in the Isle of Man.

Mr Camden, in his *Britannia*, furnishes us with an account of a long line of princes, of the Irish, Norwegian, Scottish, Manks, and English race, who were chiefly engaged in the contentions and warfare of those barbarous periods, with little leisure or ability to cherish the arts of jurisprudence, or soften, by legislative wisdom, the uncivilized manners of the times. Probably Macon, who reigned in the tenth century, may be excepted from this

\* Boeth. Hist. Scot. p. 114. Hollingsh. p. 144.

† Blackstone, l. 3. p. 350.

sweeping charge. He was deprived of the crown of Man for refusing to do homage to the English monarch Edgar, who afterwards not only restored him to the throne, but made him admiral of a great fleet, with which he swept the seas of the Danes and Normans.

Sir Henry Spelman calls him "*totius Angliæ Archipirata*," which, in another place, he interprets, "Prince of Seamen;" and from him the ancient bearing of the island was a ship\* in her ruff sable, with this inscription, "*Rex Manniæ et insularum*."

Macon was one of the eight kings who rowed Edgar on the Dee, and he was next, after the King of Scotland, a subscribing witness to Edgar's confirmation of the charter of Glastonbury. But whatever may have been the meritorious conduct and abilities of Macon, or of another very eminent prince, Goddard Crownan, mentioned by Camden, Reginald, of the family of Goddard, in the year 1219, made himself particularly notorious; for, so far from legislating for the benefit of himself and subjects, he absolutely surrendered his rights, by a formal abdication, to the see of Rome, as exemplified by the following instrument:

"Reginaldus, Rex Insulæ Man, constituit se vasallum sedis Romanæ, et ex insulâ suâ facit Feudum oblatum, Londini 10 cal. Octob. 1219.

\* The old coat of arms of Sicily were the same as are now quartered by the Duke of Atholl, viz. three armed legs of man, bending in the hams. Mr Camden was in possession of a seal with the ancient bearing and inscription, Spelman.

Sanctissimo Patri et Domino Honorio Dei gra-  
 tia summo pontifici, Reginaldus Rex insula-  
 rum commendationem cum osculo pedum.  
 Noverit sancta paternitas vestra, quod nos, ut  
 participes simus bonorum quæ sunt in Eccle-  
 siâ Rom: juxta admonitionem, et exhortati-  
 onem dilecti patris Domini P. Norwîcen electi  
 Camerarii et Legati vestri, dedimus et obtuli-  
 mus nomine Ecclesiæ Romanæ, et vestro, et  
 Catholicoorum vestrorum successorum, Insulam  
 nostram de Man, quæ ad nos jure hæreditario  
 pertinet, et de qua nulli tenemur aliquod ser-  
 vitutem facere, et deinceps nos, et hæredes  
 nostri in perpetuum tenebimus in feudam dic-  
 tam Insulam ab Ecclesiâ Romanâ, et faciemus  
 ei per hoc homagium et fidelitatem, et in re-  
 cognitionem domini, nomine census, nos et  
 hæredes nostri in perpetuum annuatim solve-  
 mus Ecclesiæ Rom. duodecim Marcas Ster-  
 lingorum in Anglia apud Abbatiam de Furnes  
 Cistercionis ordinis in festo Purificationis B.  
 Mariæ. Et si non esset ibi aliquis ex parte  
 vestra vel successorum vestrorum, deponentur  
 dictæ duodecim Marchæ per nos et hæredes  
 nostros penes Abbatem et Conventum, Eccle-  
 siæ Rom. nomine. Hanc donationem et ob-  
 lationem dictus dominus Legatus recipit ad vo-  
 luntatem et bene placitum vestrum, et post re-  
 ceptionem factam ab eo sic ipsi dominus Le-  
 gatus dictam Insulam dedit mihi et hæredibus  
 meis in feudum perpetuo possidendam et te-  
 nendam nomini Ecclesiæ Rom. Et me inde  
 per anulum aureum investivit, &c. Actum  
 Lond. in domo militiæ Templi, 10. Kal. Octob.  
 Anno Dom. millesimo ducentesimo decimo

nono. Et ne super his aliquando possit dubitari, has literas fieri fecimus et sigillo nostro muniri.”—“Codex juris Gentium Diplomaticus, per Godefredum Gulielmum Liebnitzium, impressus Hanoveræ, 1693, fol. prodromus, pag. 5.”

It is remarkable, that this prince was also the first that submitted to the crown of England, in the sixth year of the reign of King John, on the express condition that he should be admiral of the seas. John not only gave Reginald a knight's fee in Ireland, “*pro feodo et servitio*,” but took him into his particular favour and protection.—“*Johannes Rex. Sciatis quod suscipimus dilectum consanguineum nostrum Reginaldum Regem Manniæ in custodiam, protectionem, &c. Apud Woodstock, Feb. 8, 1205\*.*”

The friendship between these princes being thus established, it may reasonably be concluded, that the pusillanimous sacrifice and example of the English monarch, in surrendering his crown to the Pope, induced Reginald to complete the similitude, by tendering the like resignation.

Owing to the destruction of the records, we have no account of the laws by the Manks' princes during the Norwegian and Scottish dynasties. History merely informs us, that Alexander the Third, King of Scotland, having conquered the island, Mary Waldebeof, the last of the great family of Goddard Crownan, claimed the protection of the King of England, and offered to do homage for the Isle of

\* Rymeri Fœdera.

Man; but was answered, that "*she must claim it of the King of Scotland, who then held it.*" John, her grandson, sued again for his right in parliament; but Edward the First said (as by the record), "*He might prosecute his title before the Justices of the King's Bench; let it be heard there, and let justice be done\*.*" Afterwards, her grand-daughter, Mary, went to England with her deeds and charters, and threw herself at the feet of Edward the Third. The king not only afforded the Manks princess his generous protection, but gave her in marriage to her kinsman†, Sir William Montacute, whom Speed styles, "*the chief star in the firmament of England; for that he was magnanimous, affable, active, and generous; and that his merits had acquired him the esteem of the greatest of our English monarchs.*"

The king gave Sir William soldiers and shipping to prosecute his lady's right; which he did so successfully, that in a short time he reduced the island; and, in the year 1344, was crowned King of Man‡.

In the year 1393, William Montacute, Earl of Salisbury, sold the Isle of Man to Sir William Scroop, chamberlain to the King of England, as appears by the record: "*Wilhelmus Le Scroop emit de Domino Wilhelmo Montacuto insulam Euboniæ, id est, Manniæ: Est nempe jus ipsius insule, ut quisquis illius sit Dominus Rex vocetur, cui etiam fas est Corona Aurea coronari.*"

\* Gibson's Camden, p. 1059.

† Sir William was of the royal family of Man.—Gib. Cam 1059.

‡ Daniel, Stow, Gib. Cam., Antiq. Sarisburiensis.

Sir William, afterwards Earl of Wiltshire, having been attainted and beheaded for treason, the Isle of Man was granted by King Henry IV. to Henry Percy, Earl of Northumberland, by the following record: "We, of our special grace, have given and granted to Henry, Earl of Northumberland, the isle, castle, peel, and lordship of Man, with all such islands and seignories thereunto belonging, as were Sir William le Scrope's, knight, deceased; whom in his life we conquered, and do declare to be conquered; and which by and reason of this our conquest fell to us. Which very conquest and decree, as touching the person of the said William, and all his lands, tenements, goods, and chattels, as well within as without the kingdom, are, at the petition of the Commons, and by consent of the Lords of Parliament, ratified and confirmed, &c. to have and to hold to the said Earl and his heirs, by service of carrying at every coronation day of us, and our heirs, either by himself in person, or by some sufficient or honourable deputy, that sword naked (which we wore when we arrived at Holderness), called Lancaster Sword."

Four years after the Earl of Northumberland had obtained this grant, he was banished and attainted; and although the attainder was afterwards taken off, the earl was deprived of the island by act of parliament, and it was ordered to be seized for the king's use; but in the sixth of Henry the Fourth, the king made a grant of the island to the noble chevalier Sir John de Stanley (who had so eminently signalled himself throughout Europe) for life. Soon

afterwards, Sir John delivered up the grant to be cancelled, and the king, in consideration of the surrender, regranted the island to him, his heirs and successors, together with the castle and peel of Man, and all royalties, regalities, franchises, &c. with the patronage of the bishoprick, in as full and ample a manner, as it had been granted to any former king or lord, to be held of the crown of England, "per homagium legium," paying to the king, his heirs and successors, a cast of falcons at their respective coronations, after such homage made, in lieu of all demands and customs whatsoever. —(By the revesting act of the island under the British crown, the honorary service by the Duke of Atholl, of rendering to his Majesty and his successors two falcons at every coronation, is perpetuated, in consideration of the unique honours and privileges reserved by that august and noble family.)

Sir John de Stanley, King and Lord of Man, was succeeded by his son Sir John, who, on being crowned King of Man, in the year 1417, took possession of the island, and commenced his government conformably to the ancient laws and ordinances, as appears by the following constitution recorded in the Rolls-Office, in Castle Rushen\*, in the year 1421. This record is dated in the ancient style of the court rolls, "Anno quarto regalitatis nostræ;" and is in the following words: "Our doughtful and gracious Lord, this is the constitution of old time, the which we have given in our days,

\* Castle Rushen was built by King Guttred, in the year 960.



how ye should be governed on their Tynwald day. First, you shall come thither in your royal array, as a king ought to do by the prerogatives and royalties of the land of Man, and upon the Hill of Tynwald sit in a chair, covered with a royal cloth and cushions, and your visage unto the east, and your sword before you, holden with the point upward; your barons, in the third degree, sitting beside you; and your beneficed men, and your deemsters before you sitting; and your clerk, your knights, esquires, and yeomen about you in the third degree; and the worthiest men in your land to be called in before your deemsters, if you will ask any thing of them, and to hear the government of your land, and your will; and the commons to stand without the circle of the hill, with three clerks in their surplices; and your deemsters shall make call in your coroner of Glanfaba, and he shall call in all the coroners of Man, and their wands in their hands, with their weapons upon them, either sword or axe; and the moars, that is, to wit, of every sheading: Then the chief coroner, that is, the coroner of Glanfaba, shall make a fence upon pain of life or limb, that no man make any disturbance or stir in the time of Tynwald, or any murmur or rising in the king's presence, upon pain of hanging and drawing: And then shall let your barons and all other know you to be king and lord; and what time you were here you received the land as heir-apparent in your father's days, and all your barons of Man, with your worthies-men and commons, did you faith and fealty; and inasmuch as you are, by

the grace of God, now king and lord of Man, ye will now that your commons come unto you, and shew their charters how they hold of you, and your barons that made no faith or fealty unto you, that they make now;—and if any of your barons be out of the land, they shall have space of forty days after that they are called in, to come and shew whereby they hold and claim lands and tenements within your land of Man, and to make faith and fealty, if wind and weather serve them, or else to seize their temporalities in your hands: And then proceed in your matters, whatsoever you have there to do, in felony or treason, or other matters that touch your government of your land of Man.”

The ceremonies of this grand Tynwald Assembly being so solemnly and minutely arranged and settled, the record proceeds to explain the ancient laws and the duty of the people: The power and authority of the king's lieutenant. Restrictions from leaving the island without the king's or governor's license, which it is still requisite to obtain. The victualling and regulations of the garrisons. The powers of, and the laws relative to, the annos or coroners. The rules and orders for letting the king's lands. And, finally, the laws and punishment for treason against the king or his lieutenant;—all of which being proclaimed, the multitude expressed their assent, by an universal acclamation, and retired.

With respect to the particular prerogatives of the ancient kings, or feudatory princes of Man, they undoubtedly possessed for many

generations the title, and, till the revesting act, the powers of royalty: they had the sovereign control of government, on every occasion, under such restrictions as were from time to time introduced: they made and repealed laws: they were the fountains of honour, and appointed at pleasure all the principal officers employed in public affairs: they had for ages the patronage of the bishoprick (which the Duke of Atholl still enjoys), and had the patronage of all the ecclesiastical benefices: they drew a revenue from the country by rents, services, and casual dues, and afterwards by customs and other imposts: they exercised an appellate jurisdiction over all civil causes, and, in capital cases, could pardon offenders at pleasure. The executive power, therefore, in the largest extent, was in their hands. The author shall now proceed to the consideration of the legislative government, which is the more important object of the work.

OF THE LEGISLATIVE GOVERNMENT OF THE  
ISLE OF MAN.

HISTORIANS inform us, that it was the universal custom of the northern nations, after the dissolution of the Roman empire, to settle all matters of importance by a great council of the country; “*de minoribus rebus principes consultant, de majoribus omnes\**”;—and that this was the practice in England before the conquest. In the Isle of Man, this great council, or meeting of wise men (like the Saxon Wittenagemote, or the Commune Concilium of the ancient Germans, but, perhaps, of greater antiquity), was anciently termed *Taxi-axi*, a Celtic designation for the most worthy of the land; derived, in the opinion of Dr Campbell, from the Celtic or Erse word, “*Teagasag*,” which implies druidism, or elders and senators; but a very learned and reverend native of the island obligingly communicated to the writer, that its derivation is from “*Taxi*,” a corruption of “*Taisgi*,” a guardian or protector, and “*Acci*,” hereditary property. In more modern times, this assembly has been denominated the *Twenty-four Keys*, and, in the Manks language, is called “*Kair as Feed*,” viz. “the twenty-four;” but the correct ancient designation was “*Chor na Faid*,” the assembly of wise men. With respect to the name *Keys*, by which the members are at present designated, it is said to have originated from their retaining in

\* Tac. de Mor.

their breasts the jurisprudence of the country, and unlocking the difficulties thereof at their pleasure.

The members of this assembly are the constitutional representatives of the people, and have from time immemorial consisted of twenty-four principal land-owners, or men of the first consequence, honour, and intelligence in the island; and they hold their important situation, during the term of their natural lives, upon the same principle with the "probe homines" of the ancient Saxons.

The first institution of this council is lost in the dark ages of the most remote antiquity, and probably was coëval with the kingdom itself; and it is now, perhaps, the only Celtic institution remaining upon earth.

The convocation of this assembly, as in the earliest period of the English House of Commons, was entirely at the will of the King or Lord; for, in the year 1422, *"the deemsters and Twenty-four Keys gave for law, that there were never Twenty-four Keys in certainty, since they were first that were called Taxi-axi; those were twenty-four freeholders, namely, eight in the out isles, and sixteen in the Island of Man; and that was in King Orrye's days; but since they have not been in certainty. But if a strange point had come, the which the lieutenant will have reserved to the Tynwald twice a-year; and, by leave of the lieutenant, the deemster there to call of the best of his council, in that point as he thinketh, to give judgment by; and without the lord's will, none of the Twenty-four Keys to be."*

In more modern times, the assembling of the Keys, in their legislative capacity, as forming a part of the Tynwald, was periodical, to which they were summoned by the lieutenant or governor, who issued his mandate for that purpose; and they were also dismissed under his authority.

The Twenty-four Keys so assembled, together with the king, or lord proprietor, his governor, and council, constituted a Tynwald Court, or the Three Political Estates of the land, whose union, or concordance in opinion, was absolutely essential to every legislative act: and since the revesting of the island in the British Crown, instead of the king, or lord proprietor, every act, before it can obtain the force of law, must be allowed and confirmed by his Majesty, and ultimately proclaimed, or read in the English and Manks languages, and signed by the governor, or such of the council and Keys as are present, before the people at the Tynwald Hill. These constituted authorities may make, restrain, abrogate, or revive any insular law, and all mischiefs and remedies are within the reach of their tribunal.

Previous to the revestment, the Tynwald Courts, in which the legislative acts were considered, were held occasionally at St John's Chapel, which adjoins the Tynwald Hill; or at Castle Rushen, whichever happened to be most convenient to the lord or his governor, who occasionally resided at Peel Castle; but since the revestment, Peel Castle having fallen into decay, and his Majesty's governor usually residing at Castle Rushen, it has been found

more convenient to assemble the Tynwald at the latter of these places\*. Here the Keys met to try such appeals from the common law court as were legally brought before them. This appellate jurisdiction was, by an act of Tynwald, of the year 1777, transferred from the Twenty-four Keys to the governor, in all cases where the title to land did not come in question; but the appellate jurisdiction to the Keys, was, by an act of 1793, fully restored, and the appeals are now heard and determined in the house built for their accommodation, under the authority of an act of Tynwald, passed in the year 1776.

The Twenty-four Keys, although they are acknowledged to be the constitutional representatives, and natural guardians of the people's rights and privileges, are not democratically elected; for they fill up all vacancies in their own body by co-optation. The form of the election of the members has been for time immemorial, in case of a vacancy by death, removal, or resignation, for the Twenty-four Keys to assemble by summons from the governor, and to agree, by a majority of votes, upon the persons proposed as proper to fill up the constitutional number of their body. In this case, two persons of full age, and possessed of landed-property in the island, are elected by the Keys, and immediately afterwards presented to the governor, for his approbation and

\* The act of settlement, and many other acts of Tynwald, between the years 1704 and 1741, were passed at St John's Chapel; many others, between the years 1706 and 1755, were passed at Castle Rushen.

confirmation of one of them; and the person so elected and chosen by the house, and confirmed by the chief magistrate, immediately takes the oaths prescribed by law, and his seat; which he has the high prerogative of retaining for life, unless he chooses to resign; in which case he must petition the governor to accept his resignation, which he may accept or refuse at his pleasure; or is expelled by a majority of votes of the members, for some crime or misdemeanor; or unless he accepts any office that entitles him to a seat in the council, or the office of deemster.

The meetings of the Keys are as frequent as the governor thinks proper to appoint; and it appears clearly settled, that thirteen members are necessary to render any act in their legislative capacity valid.

The privileges claimed by the Keys are, a right to kill game; and an exemption from certain services which would otherwise have been due to the lord proprietor.

The Twenty-four Keys, in their character of judges, are the *ultimum refugium* of the common law in the island, by whom all appeals; in questions of title respecting lands, and other matters agitated at the common law court, are determined by a majority of the whole body, but from whom lies the definitive appeal to his Majesty in council.

The following is the form of the oath which has been administered on the election of a Key since the revestment:

"You shall be aiding and assisting to the deemsters of this Isle in all doubtful matters:



his Majesty's council, your fellows, and your own, you shall not reveal ; you shall use your best endeavours to maintain the ancient laws and customs of this isle ; you shall justly and truly deliver your opinion, and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof ; but in all things you shall deal uprightly and justly, and do wrong to no man. So God you help, and the contents of that book."

With respect to the council, who are so *virtute officii*, they are convened at the pleasure of the governor, to assist and advise him in the nature of a privy or executive council ; and also in the administration of justice, at his chancery, exchequer, and appellate courts ; and usually consist of the lord bishop, the receiver-general, the two deemsters, the clerk of the rolls, the water-bailiff, and attorney-general, together with the archdeacon, and the two vicars-general. The duty of the council, when not acting in their legislative or judicial capacity, is, in cases of emergency, to act for the public good in a summary way, as in laying an embargo on vessels, prohibiting the exportation of grain or victuals in time of scarcity, &c. &c.

Respecting the persons who compose and have a right to a seat and voice in the council, which, with the governor, forms the second branch of the legislative power in the island, various opinions having been offered, it would be highly presumptuous in the writer to ob-

trude any opinion of his own, or indeed any thing farther on the subject, than what is contained in the report of his Majesty's Commissioners of Inquiry, respecting the Isle of Man, in the year 1791.

The deemster (Thomas Moor, Esq.) represents this council to have consisted of the following superior lay and spiritual officers of the lord proprietor, viz. the treasurer, or receiver-general, the comptroller, clerk of the rolls, water-bailiff, attorney-general, two deemsters, bishop, archdeacon, his official, and the two vicars-general of the bishop.

The clerk of the rolls (John Quayle, Esq.) concurs in the foregoing description of this council, as far as relates to the before-named lay officers, adding thereto the collectors; but considers the bishop, and other ecclesiastical officers, only entitled to attend this council, when summoned by the governor.

The attorney-general (Sir Wadsworth Busk) differs, in some measure, from each of these opinions; for though he considers some spiritual officers to have had a fixed seat in this council, he does not allow that all those enumerated by the deemster were entitled to that privilege. He further confines the right of a seat in this council to such lay-officers as composed the lord's household, and acted in his ministerial departments. He thereby excludes the collectors, and doubts the propriety of ranking the deemsters as members of this council; although he admits, they appear never to

have been absent from the meetings of the legislature\*.

The claims of some of the before-named spiritual officers to a seat in this council at the time of the revestment, is moreover supported by instances of the enjoyment of that privilege for a series of years prior to that period. These instances are to be found in the Manks statute-book, which, from the beginning of the sixteenth century, generally records the names of the members of the legislature who signed the laws enacted in the island, either in their passage to the lord proprietor for his assent, or at the promulgation thereof afterwards; which signatures are undoubted proofs of the exercise of acts of legislation.

Since this question was agitated, the spiritual officers' claim to a seat in the council has been allowed, on the ground, that, as their prior right had not been abrogated, it could not be taken away by implication.

The following are the forms of the oaths which have been administered to the governor and attorney-general since the revestment:

### *The Governor's Oath.*

"I John Duke of Atholl do swear, that I will truly and uprightly deal between our Sovereign

\* The title of an act of Tynwald is in the following words:  
 " Inaula Monn.---At a Tynwald Court, held at Saint John's Chapel, the      day of      1811; before his Grace John Duke of Atholl, captain-general and governor in chief, the council, deemsters, and keys."

reign Lord the King and his subjects within this isle, and as indifferently between party and party as this staff now standeth, so far as in me lieth; and, when I think it necessary, will call together the council of this isle, or so many of them as shall be present within the same, and advise with them in any matter that may concern the state and government thereof; and that I will do and perform, as far as in me lieth, these, and all other things appertaining to the government of this isle, and the post and office of Governor-in-Chief and Captain-General, according to the purport and extent of my commission.—So God me help, and by the contents of this book.”

### *The Attorney-General's Oath.*

“ I will faithfully, justly, and truly, without favour or affection, dread or fear, envy or malice, and without respect to love or gain, kindred or friendship, consanguinity or affinity, plead and defend the causes of our Sovereign Lord the King, in all and every thing and things whatsoever, as by law required. I will also, from time to time, when thereunto required by the Governor-in-Chief, or, in his absence, by the Lieutenant-Governor of this isle, plead and defend the cause of all widows, orphans, and fatherless children, and be aiding and assisting, with my best advice and counsel, his Majesty's Governor-in-Chief, or his Lieutenant-Governor of this isle for the

time being, for the furtherance of the government and benefit of the said isle."

The purport of the oath administered to the other members of the council is, "to maintain and defend the ancient laws, statutes, and customs, proper and belonging to this isle, and the prerogatives thereof, and, with their best advice and counsel, to be aiding and assisting to his Majesty's Governor-in-Chief, or his Lieutenant-Governor of this isle for the time being, for the furtherance of the government, and benefit of the said isle."

## OF THE ANCIENT MANKS TENURES.

It would be a work of supererogation to inform the learned reader, that the feudal constitution, or the doctrine of tenure, had its origin in the military policy of the northern Celtic nations (who all migrated from the same *officina gentium* \*), and gradually extended itself over all the continent of Europe. † Sir Henry Spelman calls this system, the law of nations in our western world. The grand fundamental maxim of this feudal tenure is this: that all lands were originally granted out by the sovereign, and are therefore holden either mediately or immediately of the crown. The granter was called the proprietor or *lord*, and the grantee was styled the feudatory or *vassal*, which was only another name for the tenant of the land. At the first introduction of feuds, as they were gratuitous, so also they were precarious, and held solely at the will of the lord. Afterwards they became certain for one ‡ or more years, then for the life of the feudatory, and, in process of time, were extended beyond the life of the first vassal to his sons; but the quality of the feud was,

\* Craig. de jure feod. 19.

† Spelman on Feuds, l. 1.

‡ “Agri ab universis per vices occupantur: arva per annos mutant.” Tacit. de Mor. Ger.---“Neque quisquam agri modum, certum, aut fines proprius habet; sed magistratus et principes, in annos singulos, gentibus et cognationibus hominum qui una coherant quantum eis et quo loco visum est attribuunt, atque anno post alio transire cogunt.” Cæsar de Bell. Gall. l. 6. c. 21.

that it could not be alienated or disposed of. These feuds were all of a military nature, and in the hands of military persons; and the lands were cultivated by inferior tenants, who made their returns or *reditus* in service, corn, cattle, or money.

That the feudal influence was general in the isle of Man, there can be no doubt, as appears by the ancient constitution of Sir John Stanley before quoted, and his intention of seizing the bishops and abbots' temporalities who neglected to do faith and fealty to the king, evinced by the following ordinance, extracted from the records in the Rolls Office.

*"In the year 1422, the tenants and commons of Sir John Stanley, then king of the isle, were convened to a court held on the hill of Rencurling, at which court the bishop of Man was called to come to do his faith and fealty unto the lord, as the law asketh; and to shew by what claim he holdeth his lands and tenements within the lordship of Man; the which came and did his faith and fealty to the lord: The abbott also of Rushen and priors of Douglas were called to do their fealty, and to shew their claims of their holdings, lands, &c.; the whole came and did their fealty to the lord. The prior of Whithorn in Galloway, the abbott of Furnace, the abbott of Bangor, the abbott of Sabale, and the prior of Saint Bede in Copeland, were called but came not; therefore they were deemed by the deemsters, that they should come in their proper persons, within forty days, and if they came not, then to lose all their temporalities, to be seized in to the lord's hands in the same court."*

We are also informed in Lindsay of Pittscottie's History of Scotland \*, that " James the Fifth of Scotland passed over to the isles, and caused the great men to show their holdings; wherethrough he found many of the said lands in nonentry, the which he confiscate and brought home to his own use, and afterwards annexed them to the crown."

Notwithstanding the feudal tenures of the barons †, it is manifest, from the following data, that the ancient *nativi* originally held their lands in *purum villenagium*, or absolutely at the will of the king, not being permitted to hold them against his inclination; and this state of villenage is supposed to be a monument of Norwegian tyranny. In process of time the Manks acquired a more liberal tenure, in the nature of *villenagium privilegiatum*, which tenure was called holding by the straw, and was similar to the ancient tenure of the verge in England.

It is recorded in the ancient book of Customary Laws, written in the fourteenth century, in these words: " Certain old customs given for law, which have never been put in writing, but used, and allowed of long time heretofore." Amongst other ordinances it is ordained, " that the land seting to the people shall take place before Midsummer, and that the lieutenant

\* Page 152.

† Four baronies exist at this day, viz, the lord bishop's barony, the abbot's barony, held by his Grace the Duke of Atholl, the barony of Bangor and Sabel, held by lease from the crown by the Duke, and the barony of Saint Trinians, also held by the Duke.



*shall swear four men of every parish to deliver to every one his holding, who were to see that every one manured and occupied his lands to the best of his power, and be resident thereon, and that they be cherished so as to be able to rear the lord's rent, of their corn for the most part, though there be no herring-fishing; for by default of livery and partition of land, every one runneth to another and occupies it, and then will each one meet other, and so they lose their goods, which grieveth them worse than the farm, and the lord never the better.*

*"We also give for law, that the husbandman's son is my lord's treasure, for that he is to be tenant, when any poor man doth fall into poverty and is not able to provide rent; then he is to be taken and set in the said ground by force and virtue, and then he must pay the lord's rent as long as he is able; except he fall into poverty he shall keep it still; except he is his father's eldest son, and if his father die he shall be set at liberty.*

*"We find that the barons ought to have no title to any person that is born out of the country, and that cometh into the land; he ought to be put into the lord's farm before any other."*

When, at a remote period, the aforesaid ordinances prevailed, the great body of the Manks people appear to have been precisely in the situation of the English who occupied the folk-land, or estates held in villanage, and were not freemen.

With respect to the appellation of freemen, the old law of England honoured only those with that name, who, whether of illustrious an-

cestry, or the best born among the people, were not tenants of the rustic estates, sacred to Stercutius\*.

The lands in the Isle of Man were held by no positive assurance of the kings or barons, but distributed among the commoners at the pleasure of the chief, and resumed at his discretion. Afterwards, by the benevolence of the king and barons, the tenor approximated to the *privileged villanage* described by Bracton†, who wrote on English tenures in the 12th century. He says, that "*there were at the time of the conquest certain free men, who held their respective tenements freely, by free services or by free customs; and being first ejected by the hand of power, they afterwards returned, and took their own tenements again, to be held in villanage; doing, therefore, services that were base and servile, but certain and expressed by name. These are called ascriptitious to the soil, and yet are freemen, though they perform villan services, since they perform them not in respect of their persons, but in respect of their tenures. And they are therefore called ascriptitious to the soil, because they enjoy this privilege, that they cannot be removed from the land, so long as they can discharge their bounden renders; nor can they be compelled to hold such their tenements against their will.*"

At length, after a series of immemorial indulgencies and customs, the Manks not only became ascriptitious to the soil, but acquired

\* Selden, An. Angl. l. 2. s. 97.

† Lib. 1. c. 11.

a permanent estate, descendible from ancestor to heir, in the nature of *liberum socagium*, subject to military services, pecuniary rents, fines, &c. During this state of things, the tenant or feudatory could not alien, or otherwise dispose of his feud, neither could he exchange, nor mortgage, or devise it by will without the consent of the king or lord.

There is reason to believe, that the Manks prince, Goddard Crownan, first gave his subjects a limited tenure, for some services performed by them in the north part of the island, on condition that none of them should ever presume to claim their lands as an absolute estate of inheritance; but this was unavoidably subject to considerable interruptions, owing to the unsettled state of the government, particularly at the commencement of the Scottish dynasty in the island, about the year 1266, when Alexander the Third, King of Scotland, conquered the Western Isles, and afterwards the Isle of Man.

The records of the island do not inform us at what period of their history alienation of the land was first permitted, on license from, and payment of a fine to the king or lord:—probably soon after Sir William Montacute had conquered the island, and was proclaimed king. His character was eminently distinguished for magnanimity, liberality, and generosity, and possessing these eminent qualities, it is reasonable to presume, that he would be generously disposed to put his subjects on a footing, in some measure, with the English, who, after various struggles, had obtained by Mag-

*na Carta*, and the statute of *quia emptores*\*, a liberty of alienating their estates, to be holden of the same lord, or his successors, as they themselves had holden of originally.

Before this abstruse subject is dismissed, it may not be irrelevant to show, by an ancient note, the opinion of the English judges, who solemnly confirmed, by their judgment, the prior doctrine of Sir Edward Coke, as contained in his fourth institute, with reference to the perfect independence of the Manks law.

*“ By the report of Killway, surveyor of the Court of Wards, 11th Henry VIII., it was found by inquisition, that Thomas, Earl of Derby, tempore mortis suæ, was seized of the Isle of Man; upon which Ann, Countess-dowager of Derby, sued to have dower of the said isle, to which Blundel, Chief Justice, ex assensu, Brook, Fitzherbert, and of all other the council of the King, said the inquiry was void, for that the Isle of Man is no parcel of the realm of England, nor do they use the law of England.”*

\* 18th Edward I.

**OF THE MODERN MANKS TENURES, WITH THE  
TITLES BY DESCENT, MARRIAGE, WILL,  
PURCHASE, &c.**

WHATEVER might be the criterion, or distinguishing mark of the ancient Manks tenures, which included the various methods of holding lands in fealty, by certain and invariable rents and duties, we have no record of their permanent mode of descent or alienation, until the act of Tynwald, passed by James, Earl of Derby, his council, deemsters, and keys, in the year 1645. It had been previously declared, by an ordinance of Ferdinando, Earl of Derby, made in 1593, "that any person that is entered tenant to an estate upon the court rolls for the space of twenty-one years, and no bill exhibited, or claim made, possession of the grantee is a good bar against the grantor and his issue \*.

It is understood in the island, that some time previous to the passing of the act of 1645, the lords officers had prevailed upon many proprietors of land, to surrender their customary estates (which, by ancient custom, had descended to the eldest son, and for want thereof to the eldest daughter) to the lord, and accept leases for lives in lieu thereof. This measure

\* The deemsters and keys said, in 1745, that as to an heir claiming an estate by the statute of 1593, the twenty-one years are to be reckoned from the time of the dispossession of the grantor, and not from his decease. The statute of limitation of 1593, is confirmed and established by an act of Tynwald, passed in 1647.

was accomplished by the members of the lord's council suggesting, that the land-owners had no fixed property in their estates by any positive law, but that they held merely as tenants at will from the lord. Happily, however, for the people, the constitutional guardians of their rights, the Twenty-four Keys, interfered; and remonstrating with respectful firmness to the Earl of Derby, he graciously listened to their complaints and solicitations; and the Keys procured not only the passing of this act, but ultimately succeeded in obtaining the celebrated act of settlement, or, as it is emphatically called, *the Manks Magna Carta*, in the year 1704\*.

By the statute law † the purchaser of a farm, quarter land, or any other real property, may either alien or devise his purchase; and if not disposed of, it remains assets in the hands of the heir at law in default of personal property, for payment of all debts, whether by specialty or simple contract, without any preference. And by the Manks common law, such premises, after one descent from the purchaser, are in the nature of estates of inheritance; and, consequently, the first proprietor of such inheritance after the purchaser, takes by the law an absolute estate of inheritance, descendible from ancestor to heir, in the manner prescribed by the act of Tynwald of 1645, which settles the estate, conformably with the ancient custom, on the eldest son, and for want thereof, on the eldest daughter, and, in default of chil-

\* Appendix; title, Act of Settlement.

† Appendix, A. T. 1777; title, Baron and Feme.

dren, on the next of kin, but subject always to the gift, grant, sale, mortgage, lease, or assignment by deed of the owner, and subject also to forfeiture for felony or treason ; and in case of want of personal effects, the estate may be sold for the payment of arrears of the lord's rent, to which all the lands in the island are subject.

But although lands may be alienated by deed, they cannot be disposed of by will, except by the first purchaser, neither are they subject to any other than mortgage debts, except in the instance of purchased lands as before mentioned, and that description of property called mills, cottages, and intacks. With respect to a Manks purchaser, the term cannot be construed in the large and extended sense of Lyttleton's perquisitio, which included every kind of title, except only hereditary transmission ; for here it can only mean a purchaser for a consideration in money or effects.

The quarter-lands alluded to by these acts, may be analagous to the hides of land, formerly so denominated in England, and which usually consisted of about 100 acres. The Manks name implies the act of quartering out, or allotting the principal lands by the lord's officers to his tenants. These quarter-lands have, immemorially, been considered property of the highest nature in the island, and though now absolute estates of inheritance, are subject by the act of settlement to the payment of an annual-rent to the lord, and a fine certain upon descent or alienation.

The act of settlement having directed that

the tenants names should be entered in the court rolls \* as formerly done ; it is proper to observe, that in case the conveyance should be lost or destroyed, the title cannot be impugned, if it is entered on the rolls of the sheading court, unless another person shews a better title.

At the chancery, common law, or baron court, all deeds, whereby any lands are alienated, settled, or incumbered, ought to be published, approved, and recorded. And at the baron court (formerly called the sheading court) the names of all deceased proprietors of land, grantors, mortgagors, &c. are drawn out of the *liber assedacionis*, and the names of the heir, grantee, and mortgagee are entered in the *liber vastarum*, and their respective titles by which they are so entered, ascertained and specified, and from which *liber vastarum* a new *liber assedacionis* is made; from these books the title of every acre of land in the Isle of Man may easily be traced.

The ancient records (particularly the 19th customary law) inform us, “ *that the time for entering the tenants names in the court rolls, for any lands, is to be at the sheading courts, to be holden after May in every year ; and that there shall be a jury of four men in every parish elected out of the ancient moars, called a setting quest, sworn to aid and assist the court in entering the*

\* At a baron or sheading court, holden at the Castle of Rushen for Middle Sheading, the      day of      1811. The before written deed of sale being acknowledged before the deemster, and now openly published in court, and no objection offered against it, the same is therefore allowed of, for, and in the name and on behalf of the most noble John, Duke of Atholl, lord of the Lordship of Man and the isles, and confirmed by this court.



*tenants names ; and the entries so made shall be reputed and taken of such force and validity, as that, in case the bills of sale should happen to be lost, the record is sufficient to make good the title.” “ And when any lands are to be divided between tenant and tenant, the same shall be done by the setting quest ; and it is considered that no traverse should be granted upon the verdicts or returns of the setting quests, as upon other juries at common law.”*

The act of settlement absolutely and irrevocably confirms these estates of inheritance, which are descendible from ancestor to heir, according to the Manks laws before stated, subject to the annual-rents to the lord, and to the fines due to him upon death or alienation\*, and also to the fines on any unredeemed mortgage of five years standing, at the end of which period the mortgagee becomes the lord's tenant ; but the mortgager has power of redemption within twenty-one years from the date of the mortgage. The act declares all mortgages null and void, which shall not be recorded within six months next after their execution.

With respect to the obtaining payment of any principal or interest which may be due on mortgage, the most summary redress may be obtained by application to the deemster, who, after the ordinary summons and hearing, will either order the interest to be levied out of the mortgagor's effects, or order possession of the mortgaged premises to be given to the mort-

\* The fines were permanently established, at the general fining which took place a short time previous to the passing of the act in 1645.

gagee forthwith, to hold until payment of principal, interest, costs, and charges, according to the terms of the mortgage deed. And in case the premises be of that description called purchased lands, or cottages, or intacks, if the mortgage deed be in the usual form of a bond and security, the deemster may order the principal, interest, costs, and charges, to be levied out of the mortgaged premises. But under a common mortgage this cannot in an ordinary way be done. Nor can the mortgagee, in any case when the premises consist of quarter-land of inheritance, have other relief for recovery of his mortgage money, than an order or judgment to possess the premises as before mentioned; and being so possessed, it is his duty to let the premises from year to year by public auction to the highest bidder, and to apply the rents in reduction and discharge of the mortgage.

Relating to estates which are recognized under the denomination of intacks, cottages, mills, &c. they are, by the act of settlement, chargeable with debts, and may be alienated by gift, grant, demise, will, or assignment; but by the statute of 1777, such property (although still liable to the debts of the owner) shall not be deemed personal effects or chattels, so as to be considered assets in the hands of executors, or subject to be claimed by right of consanguinity, or next of kindred, in exclusion of the heir at law.

From these premises it appears, that nothing can be more simple or easily defined than the modern Manks tenures, which are totally un-

shackled with, and unrestrained by fictitious suits or records, similar to English fines or recoveries; by abstruse family settlements, for no entail can be created of hereditaments within the isle, beyond the life of the grantee, or the heirs of persons *in esse*\*; by feofments with livery of seisin; by lease and release; or the subtle and intricate learning of reversions and remainders, which forms so essential and abstruse a part of the English code.

The common conveyance of a Manks freehold, is a deed signed by the parties in the presence of two witnesses, in the nature of an English bargain and sale, not indented, and without seal or stamp, neither of which are necessary to any deed executed in the island, except instruments of a public nature, and letters of attorney to be used out of the island, in which case the government seal is requisite; and it is usual and advisable for the parties to acknowledge the deed before a magistrate, who verifies it to be their act under his hand. With this formality it is received in any court of justice in the island, without the necessity of producing witnesses to prove the execution; but, in the neighbouring kingdoms, before a Manks deed can be received in evidence, it is necessary that the hand-writing of the parties should be proved in court.

With respect to wills in writing, there is no law that prescribes any particular form of execution, excepting that two witnesses are re-

\* The deemsters and keys, after solemn argument in 1745, declared, that they knew no law in the Isle of Man, by which estates tail could be created.

quisite respecting territorial property ; but by the statute of 1777, no nuncupative will shall be valid that is not proved by the oaths of two witnesses, and that the testamentary words, or the substance thereof, be committed to writing within ten days after the making and publishing of the nuncupative will. Regarding the rights of husband and wife to freeholds or quarter-lands of inheritance; by the common law of the island, if a woman marries a man who is seized of a freehold of inheritance, and survives her husband, she shall be entitled to one moiety of the estate, *dum sola et casta vixerit*; and by act of Tynwald\*, she is entitled to a moiety of the husband's purchased lands absolutely, in case she survives him, and may dispose of this moiety, even in his lifetime, to such of her children as she shall think proper, or to her husband, but to no other person ; but this right of dower may be barred by settlement before marriage, and by joining in any sale or mortgage during marriage. And in case a man marries an heiress, and survives, he shall be entitled to one moiety of the estate acquired by descent, so long as he remains a widower, and to a moiety of his wife's land, acquired by purchase, absolutely ; and he is solely entitled to the receipt of the rents and profits during the coverture. It is further provided by the common law, that an heiress so married hath no power to sell or lease her estate, without being joined in the act by her husband ; and, in like manner, a husband can-

\* A. T. 1777.

not sell or make a perfect lease of his estate, without the consent of his wife, so as to prejudice her right in case of survivorship. And should a man marry a second wife, having issue by the first, the second wife shall enjoy, after his decease, only one fourth part of his estate of inheritance during her widowhood; but if there is no issue living by the first wife, the second shall be entitled to a moiety.

Under this head of tenures, it may be observed, that as the Manks have for ages been adjudged to owe allegiance to the Crown of England, they were, even before the revesting act, capable of inheriting lands in any part of his Majesty's dominions.

With respect to the commons and waste-lands of the island, which are the property of the Duke of Atholl, and are of very considerable extent, when any part of them are granted to a tenant, it is done in the following manner: Upon application to the lord, or his seneschal, for a parcel of the commons, or waste-grounds, he may, as a matter of favour, grant a license in the name of the person so applying, allowing him to enclose, with a proviso in the license, requiring the great inquest of the sheading or district, where the common is situated, to view and sanction the enclosure, in case there shall be no legal impediments, and certify the length and breadth thereof. With this authority, the inquest are convened to the premises; and upon view and admeasurement of the land, it is their duty to certify on the back of the license, the quantity, and, if in no respect prejudicial to the public in any

highway, water-course, or turbary, their approbation of its being enclosed and rented.

This license, with the inquest's return, are lodged upon record, and then the party applies to the seneschal, to settle a rent thereon; which being done, and certified on the back of the license, it is carried to the seneschal's office, who enters the tenant's name, the premises, and the rent, in the court rolls; all of which being executed, an absolute estate of inheritance in the premises is created to the tenant.

## OF THE MANKS' PENAL LAWS.

SIR WILLIAM BLACKSTONE, in his invaluable commentaries on the laws of England, informs us, that, "in the Isle of Man, to take away a horse, or an ox, was no felony, but a trespass, because of the difficulty in that little territory to conceal them or carry them off; but to steal a pig or a fowl, which is easily done, was a capital misdemeanour, and the offender punished with death."

With the greatest deference and respect for the conclusion drawn by the learned commentator, from the Manks law, as here quoted, it may be reasonably presumed, with reference to the preamble of the act of Tynwald 1629, that, previous to the restraining act of 1736, the deemsters and jury had, by the ancient breast or common law, ample powers to convict capitally, for stealing an horse or an ox; but be this as it may, the laxity and contracted state of the penal code of this island, in general, may be accounted for, from the reason stated by the learned commentator; and the cause assigned by him applies also to the difficulty of egress, or concealment from justice of any offender against the laws. These considerations, added to the ancient, simple, and limited state of society, together with the great and unparalleled power vested in the deemsters, by the breast or traditional com-

mon law, originating with the Druids\*, and which comprised every case that might rationally be anticipated, in the narrow and circumscribed intercourse then subsisting among the members of the community, sufficiently account for the very few penal statutes which constitute here a capital crime, when compared with the various classes of offences, punishable by the statute laws of England with death. But owing to the great influx of strangers into the island of late years, the consequent enlarged state of society, with the commercial and other important relations incident thereto, new cases and crimes are evolved and multiplied, for which no provision is made by the scanty code of laws now in force.

In this alarming laxation of penal jurisprudence, and considering that practical wisdom and justice are virtues and excellencies of all times and of all places, the writer, with great deference to the constituted authorities, humbly presumes to intimate, that a code, not breathing too much the spirit of Draco†, but mildly approximating to the wisest penal laws, where crimes are accurately defined; and penalties never uncertain, and compatible with local circumstances and habits, should be forthwith attended to by the Legislature. That this most important subject is in contemplation, and that it will speedily be matured and acted

\* The ancient Irish Brehon law, so styled from the Irish name of Judges, who were denominated Brehons, is described to have been a rule of right unwritten, but delivered by tradition from one to another.---Edmund Spenser's *State of Ireland*, p. 1512.

† Let there be no Rubrics of blood, &c.---Lord Bacon.



upon, he has great reason to hope, from an intimation made from the bench, by his Grace the Duke of Atholl, the chancellor and governor-in-chief, relative to a melioration of the penal laws of the island : for to shew that such an improvement is imperious, it will be sufficient, after what has been said respecting the paucity and imperfection of the penal code, to refer to a clause in the act of Tynwald, passed in the year 1736, by which it is enacted, " That no court, judge, or magistrate, shall impose any fine or punishment upon any person, on account of any criminal cause, unless he be first convicted by the verdict or presentment of four, six, or more men, as the case shall require, upon some *statute* law in force ; nor shall imprison any person arbitrarily, before a proper complaint is made and lodged, and an affidavit made to the truth thereof. Provided that courts of justice, and magistrates doing the duty of their offices, shall have and continue the power of committing and fining any person or persons for contemptuous behaviour, insulting or abusing them, or any of them, in the execution of their duty, according as the nature of the offence shall demerit."

It would appear that this restraining act (like the Lex Portia of the Romans\*), amounting to a virtual abrogation of the breast, or common penal law, which had previously invested

\* After the expulsion of the Decemvirs, all their penal laws were, in fact, abrogated ; they were not, it is true, repealed in form, but the Lex Portia, by which it was ordained that no Roman citizen should be beaten or put to death, rendered them entirely useless.---Livy.

in the judges of the isle, through a long succession of ages, a large, if not unlimited discretionary power, had for its primary object, the abridging of such an indefinite authority, as might be deemed dangerous in its consequences, and repugnant to the best interests of municipal liberty. On this solemn subject, the learned judge, before quoted, humanely and religiously observes, that "criminal law should be founded upon principles that are permanent, uniform, and universal, and always conformable to the dictates of truth and justice, the feelings of humanity, and the indelible rights of mankind; though it sometimes (provided there be no transgression of these eternal boundaries) may be modified, narrowed, or enlarged, according to the local or occasional necessities of the state which it is meant to govern."

"That to shed the blood of our fellow-creature is a matter that requires the greatest deliberation, and the fullest conviction of our own authority; for life is the immediate gift of God to man, which neither he can resign, nor can it be taken from him, unless by the command or permission of him who gave it, either expressly revealed or collected from the laws of nature or society, by clear and indisputable demonstration. And when a question arises, whether death may be lawfully inflicted, the wisdom of the laws must decide it; the guilt of blood, if any, must lie at their doors, who misinterpret the extent of their warrant."

By the law of England, unless a statute most clearly and expressly subjects the culprit to the

penalty, by a plain and distinct designation of the crime and its consequences, the judges will not award the sentence\*. And by the law of Scotland, where the punishment is left by law to the discretion of the judge, he can in no case extend it to death; for, where the law intends to punish capitally, it says so in express words, and leaves no liberty to the judge to modify†.

With such luminaries before their eyes, the learned and humane judges in the island of the present day would have found it impossible to shed the blood of man, even for the commission of the heinous crime alluded to, by the following wild and uncivilized ordinance, viz.

*“ If any man take a woman by constraint, or force her against her will, if she be a wife, he must suffer the law for her. If she be a maid, or single woman, the deemster shall give her a rope, a sword, and a ring; and she shall have her choice, to hang with the rope, cut off his head with the sword, or marry him with the ring.”*

The great Lord Bacon, with that lucid wisdom which characterizes all his writings, says, in his Tract upon Universal Justice, that “ a law may be held good that is certain in the intimation, just in the precept, profitable in the execution, consonant to the form of government, and generating virtue in the community. Certainty is so essential to a law, as without it a law cannot be just, ‘ si enim incertam vocem det tuba, quis se parabit ad bellum.’ A law then ought to give warning before it strike;

\* Bacon's Law Tracts, p. 75.

† Erskine's Institutes.

and it is a good rule, that it is the best law which gives least liberty to the arbitrage of the judge. It is a hard case to torture laws, that they may torture men." We are also informed by another noble author\*, that it is better to prevent crimes, than to punish them. This is the fundamental principle of good legislation, which is the art of conducting men to the *maximum* of happiness, and to the *minimum* of misery. Would you prevent crimes,—let the laws be clear and simple;—let the laws be feared, and the laws only.

The punishment of a crime cannot be just, if the laws have not endeavoured to prevent the crime, by the best means which the times and circumstances would allow. And as crimes are only to be estimated by the injury done to society, to constitute the justice of the punishment, it should have only that degree of severity which is sufficient to deter others: *for the excessive severity of laws hinders their execution*†.

With respect to the duties of a magistrate, Cicero says, that " they must be exercised with resolution, and with a severity that is above all partiality; to which must be added, affability in hearing, deliberation in examining, and accuracy in explaining and enforcing his opinion or judgment." A man of such enlightened understanding, appointed guardian of good laws, is the greatest blessing that a sovereign can bestow on his people.

\* Marq. Beccaria.

† Montesquieu.

With regard to the acts of Tynwald relative to the penal law, the quotations in the Appendix, from all those which can be now enforced by the magistracy of the island, will impress the mind of the reader with grave reflections on the immediate necessity of a revision of several of them, particularly the statute of 1629, which comprizes offences of very inferior criminality, and naturally causes some astonishment, how it was thought necessary to make them punishable with death\*.

In exercising the high authority of legislation, the quantity and quality of human punishment will doubtless be wisely considered; and the legislator will bear in mind, that all punishments should, if possible, be not only in *terrorem aliorum*, but in *emendationem delinquentis*; it will consequently follow, that liberty and reason must triumph when the laws are neither indefinite or obscure—when they proportion the punishment to the offence—when outrageous penalties cannot be enforced—and when crimes shall be more effectually prevented by the certainty, rather than by the severity of punishment.

This great work being happily accomplished, it will be farther manifest (in the language of an eminent divine†), that “two things speak much the wisdom of a nation, viz. good laws, and a prudent management of them.”

\* It is much to be lamented, that it should be made a capital crime in England, to cut down a cherry-tree in an orchard, or to break down the mound of a fish-pond, and that too in the eighteenth century.

† A. B. Stillingfleet.

With respect to the *crimina læsæ majestatis*, (the statute of 25th Edward III. or any other in which the island is not expressly named, being there of no force), and also many other offences of a most atrocious and malignant nature, now totally unknown to the Manks law; it would indeed be highly improper, ill-timed, and presuming in the writer, to say more than merely to hint, that, for very obvious reasons, the subject imperiously demands the immediate attention of the insular legislature.

Concluding it, therefore, to be the intention of the Government, under the auspices of his Grace the Duke of Atholl, to abrogate certain of the old, and make such new criminal laws, as the members in their wisdom may think reasonable and prudent, the writer apologizes for this concise notice of the Manks penal law, and will conclude his observations on the subject with a sentiment of Montesquieu: "Could I but succeed, so as to persuade those who command, to increase their knowledge in what they ought to prescribe; and those who obey, to find a new pleasure resulting from their obedience, I should think myself the most happy of mortals."

## OF THE COURTS OF JUDICATURE.

THE policy of the Manks constitution has established various courts of civil and criminal jurisdiction ; the principal of which, exclusive of the house of keys, are the court of chancery, the court of general goal-delivery, the court of exchequer, the common law or sheading courts, the two deemsters' courts, the court of admiralty, or water-bailiff's court, the ecclesiastical courts, and the courts of the high bailiffs of the four principal towns ; all of which have an original jurisdiction, and controlling grounds of determination : but the courts possessing appellate jurisdiction, are the Twenty-four Keys, the staff of government, consisting of the governor and council, and his Majesty in council.

For the more convenient administration of justice, the island is divided into two districts, with a deemster or judge for each ; but the courts of chancery, general goal-delivery, exchequer, and the southern common law courts, are held in Castle Rushen ; and all the judges and law-officers, except the ecclesiastical, are commissioned by his majesty, *durante bene placito*. These districts are subdivided into six sheadings or divisions, over each of which is annually, about Midsummer, appointed by the governor, a coroner, with extensive powers ; the name and office of sheriff being here unknown.

By the ancient constitution, the king or his lieutenant, assisted by the deemsters, council, and keys, held cognizance of all pleas, civil and criminal (for the great Tynwald court was originally held only for the promulgating of laws), and, like the Wittenagemote, or general council of the Saxons, formed one supreme court, or *Aula Regia*, for private justice and public business; and this did not interfere with the ecclesiastical jurisdiction, which had from remote antiquity their own tribunals. But in later periods, as the island increased in population, commerce and wealth; and consequently, when suitors and causes became more numerous, it was necessary to institute the different courts before mentioned.

In all the insular courts, the party is at liberty to plead his own cause; but in matters of importance, the trial is usually conducted by an advocate, who, by the statute of 1777, must first be commissioned by the governor, and take the usual oaths. By this act, if an attorney should become bail in any cause, or carry on any suit by way of champerty, he subjects himself to fine and imprisonment at the discretion of the court, and is rendered incapable of practising in future.

By the act of revestment the courts were left untouched, excepting that the lord's juridical authority being abolished, the court of his Majesty in council became the immediate, as well as the last court of appeal from the jurisdictions within the isle.

When an appeal to his Majesty in council is demanded, the party must petition the gover-



nor for that purpose. On this petition, the governor grants an order, requiring the party to enter into a bond, with sureties, in such penal sum as he may think proper, that the appellant shall prosecute the appeal within a limited time; the lodgment of the appeal is considered to be a sufficient proceeding to prevent the recovery of the penalty, and afterwards it behoves the respondent to press the cause to a hearing and ultimate decision.

It having been the practice to allow appeals in causes of small import and value, which might have been proper previous to the revestment, when the appeal could be made with very little expence to the lord proprietor on the spot; it is submitted to the wisdom of the legislature to what extent these trifling appeals ought to be allowed, more especially as, in some instances, they may, in the hands of the wealthy and litigious, be converted into engines of oppression against the poor.

**OF THE CHANCERY COURT, AND THE PRIVILEGES OF NATIVES AND STRANGERS, WITH RESPECT TO ARRESTS, &c.**

IN this supreme court, the governor\*, who represents his Majesty, or, in his absence, the lieutenant-governor, presides as chancellor; and he is assisted by the deemsters, the clerk of the rolls, the attorney-general, and the admiral or water-bailiff; all of whom, since the revesting act of the island in the British crown, hold their respective situations during the pleasure of his Majesty.

This court, in matters of civil property, possesses the greatest judicial consequence of any in the island; and has a mixt and most extensive jurisdiction in matters both of law and equity. Like the English court of chancery, it is the province of this court, to judge and determine without the intervention of a jury, and (with the exception of not imprisoning the persons of the natives, unless they incur a contempt of court) has homogeneous authority and power.

The equity side differs from the courts of law, more in exterior practice than in principle; but, like the English court, it compels the defendant to make a discovery on oath,

\* The governor is sworn to execute his office as uprightly as he bears the white staff (which is the mark of his dignity) in his hand, agreeable to the symbolical philosophy of the Druids, that this mark of the magistrate's legal power may be a constant memorial to him of his duty.

unless such discovery should tend to his crimination ; and it modifies the relief prayed, either by bill, injunction, or petition, in such manner as may best answer all the particular exigencies of the parties ; but can in no case oppugn the fundamental maxims of the law, “ *perquam durum est sed ita lex scripta est ;*” and in this, or indeed in any of the insular courts, should a perfectly new point, or *res integra*, occur, recourse is always had by the respective judges to the best authorities, or expounders of the law of England, on the legal subject before them, as their pole-star and authority.

For the purpose of prosecuting a suit on the law side of this court, a common action is entered at the rolls-office, and process is granted by the governor thereon. Three days before the chancery court (which is usually held the first Thursday in every month in Castle Rushen) the defendant must be charged, or summoned by the coroner or his deputy, to appear at the next court, when the action is called in its regular order by the coroner. Should the defendant neglect to appear, an attachment is moved for against him ; and these proceedings are renewed at the second, third, and fourth courts ; at the latter of which, the cause is either heard and determined, if matter of debt, and not denied, by the complainant’s own oath ; or it may be continued to the next court, at the option of the complainant. Should the cause of action be disputed or denied by the defendant, the court may transmit the matter to be tried in the deemster’s court, or by a jury at common law ; or to such other court, eccle-

siastical or civil, as the nature of the case may require. But when a common action is taken out, (which must be on affidavit of the debt), either against a native who is about to leave the island, or against a stranger for a debt, however small, contracted in the island, the defendant may not only be sent to prison, but his effects may instantly be arrested and taken possession of by the constable, to answer the amount of the damages and costs. After the decree, the effects must be sold by auction, or so much thereof as will satisfy the complainant, after paying one year's rent if due, and such servants wages as may happen to be owing by the defendant.

On the equity side of the court, the proceedings are carried on in a manner similar to the English, viz. by bill and answer, after the compulsory process before-mentioned; when the defendant is obliged to put in his answer by the fourth court, unless he obtains time from the chancellor, or has left the island; in such case, a commission is moved for to take his answer, and time given for the purpose, at the discretion of the court.

After the answer is put in, the parties proceed forthwith to the examination of witnesses, whose testimony is taken in writing before the clerk of the rolls, at such time and place as he may appoint, whereof notice is to be given to the opposite party; or, if the witnesses reside abroad, a commission issues, with the forms prescribed in England; and, on its return, after due publication, copies of the depositions are given to the parties, and the

cause comes on to be heard at the next court. It is not usual for the chancellor to pronounce his decree in open court; but in a few days after the hearing, the decree is extended, entered on record, and signed by the chancellor; a copy of which may be immediately had at the rolls office.

With respect to the privileges of natives and foreigners; the Manks jurisprudence, when it justly compels a native debtor to give up all his present and future effects in satisfaction to the creditor, humanely exempts him from the rigours of imprisonment; and its polity has thought fit to give a limited protection to the stranger for debts contracted by him out of the island, for the King's writ does not extend to the Isle of Man; and it must always be remembered, that an English act of Parliament does not bind his Majesty's subjects in the island, unless it is expressly named therein.

By several acts of Tynwald, and the practice of the court thereon, so far as relates to a native, he cannot be held to bail or arrested for debt, unless he has obtained the governor's pass, or there is some other just cause; as, for instance, his declaration, or avowed intention, by some clear overt act, that he is *in meditatione fugæ*; and this manifestation must be verified by affidavit. With regard to bankruptcy, as recognized by the English laws, with all its train of legal consequences, it is entirely unknown to the Manks law.

With respect to a stranger, should he be arrested for a debt contracted out of the island, he may immediately petition the governor for

a hearing, which may be granted *instantly*, on three days notice of the hearing being given to the party; and in case his effects in the island are forthcoming or delivered up, or on the plaintiff's obtaining the governor's process to summon a jury, for the purpose of inquiring whether the defendant is possessed of effects, and their verdict should be, that he is not, he must be immediately liberated: but if the stranger should contract a debt, however small, in the island, he may be arrested, and, on non-payment, or, if sufficient bail cannot be procured to answer the amount of the debt, or damages and costs which shall be awarded by the court, he may be confined in the prison of Castle Bushen till the plaintiff is satisfied the amount. But if the prisoner for debt under a decree or judgment shall have faithfully and justly accounted for, and delivered up his effects on oath, the governor may allow him sixpence per day for his subsistence; and in default of the payment weekly, the governor may liberate the prisoner.

Respecting the law of arbitration, no proceedings under this head are cognizable in the courts of the isle, without a penal bond to his Majesty, or without a rule of court, entered into by consent of parties in court.

The statute of 1736 having exempted a landed man from arrest for debt, it is material to show what was meant or intended by that expression; and this will be clearly evinced by the following opinion of the Keys, which is recorded in the *Liber Scaccarii* of the year 1719, in these words: "We say, that whoever hath

an interest or title to any estate or holding within the land of Man descending from his ancestors, and doth pay lord's rent, and other suits and services as the natives do, he ought to have all the privileges the natives enjoy by the laws and customs of this island; but this not to be understood to qualify any stranger or incomer to these privileges, by taking a rent of a small value, on purpose to enjoy the benefit hereof, but to such only, as, either by purchase pay the lord's rent of an ancient quarter-land or more, or three pounds or more yearly in intack, which we look upon equivalent thereto, and occupy and improve the same by himself, family, or farmer, to the end the lord and country may be the better secured that he perform the suits and services the natives do, in proportion to his estate or holding."

OF THE COURT OF GENERAL GAOL DELIVERY,  
WITH THE FORM OF TRIAL OF A PRISONER,  
AND THE CONSEQUENCES OF HIS CONVIC-  
TION.

THIS is a court of peculiar dignity and splendour: the governor, the bishop, his archdeacon and vicars-general, the deemsters, the clerk of the rolls, the water-bailiff, and attorney-general, together with the twenty-four keys, all presiding therein, for the purpose of trying any crime which, by the law of the island, is deemed capital; those of a subordinate nature being heard and determined before the magistrates, conformably to the statute of 1753.

The proceedings, as directed by the statute of 1777, exemplify all the humane and beneficial consequences which attend the inquiry of a grand jury in the other parts of the united empire, with this difference, that an English grand jury is restricted to the hearing of evidence only on behalf of the prosecution; but, in the Isle of Man, depositions are also taken on the part of the prisoner in his presence, which compassionately affords him a preparatory trial, and gives the jury, as well as the prisoner, the benefit of that excellent maxim, *audi alteram partem*, and enables them with more certainty and precision to say, by their verdict, whether the prisoner shall be called before the awful tribunal of the general court, or be immediately discharged.



At the trial before the general court, the verdict of the first jury is produced, and previous to the trial, the prisoner may challenge fifty-four of the jury of general gaol-delivery; the constitution requiring that four good men should be summoned out of every parish in the island, amounting in number to sixty-eight men. A jury of twelve being impanelled, they are sworn and charged by the deemster; the prisoner is arraigned on the indictment by the clerk of the rolls, and the prosecution is conducted by the attorney-general. And here again the humanity of the Manks law is conspicuous, in allowing council to plead for the prisoner (which is not the case in England \*), although, for time immemorial, it has been permitted by the law of Scotland, who may cross-examine the evidence for the crown, plead for the prisoner, and reply to the attorney-general.

When the pleadings are concluded, and the jury are agreed on their verdict, a very ancient and remarkable ceremony ensues. The deemster demands of the foreman, in the Manks language, "Vod fir charree soie?" "May he that ministers at the altar; continue to sit?" If the foreman answers that he may not, it is understood to be the precursor to the verdict of guilty, and the bishop and his clergy immediately retire; but should the answer be in the affirmative, the verdict of not guilty is returned, and the prisoner is instantly discharged.

\* If there ever were an instance of innocence being justified by means of counsel, the law which deprives the accused of that benefit is evidently unjust. Marq. Beccaria:

It is remarkable that the above custom prevails in the British House of Lords ; it being determined in the Earl of Danby's case, that the lords spiritual have a right to stay and sit in court in capital cases, until the court proceeds to the vote of guilty or not guilty.

After trial and conviction (the extraordinary *privilegium clericale* being here unknown) the senior deemster pronounces the awful sentence of death, which consists of being hanged by the neck till dead ; no other punishment for capital offences being here used, except that for treason ; but the execution must be delayed till the pleasure of his Majesty is known.

With regard to the crime of treason, as it stood previous to the revesting act, it is thus defined by the ancient laws, viz. "*Rising against the king's or lord's lieutenant or governor ; breaking the church or the house of the lieutenant, or any of the king's council ; robbing or beating the lieutenant, or coming in arms against him, &c. And the sentence was, ' forfeiture of lands and goods ; drawing with horns ; then hanged and quartered, and their heads stricken off, and set upon the Castle Town over the burn ; another quarter at Holland\* Town, the third quarter to be set at Ramsay, and the fourth at Douglas.'*"

Respecting the ancient punishment, when the offence was not deemed capital, by an ordinance of Sir John Stanley, King of Man, made at his Castle of Rushen in 1422 : "*If the prisoner be the king's born man, and hath made faith and fealty, and put him in grace, if he be*

\* Now called Peel.

*indicted and no manour in his hand, or the verdict be given that he ought, by the law of Man, to have his life ; he must forfeit his goods, and then shall he have his choice of three things by the deemsters judgment ; first, he shall choose whether he will rest in prison a year and a day with substance of the prison ; viz. he shall have bread, one part meal and the third part ashes, and to drink of the water next the prison door ; the second is to forswear the king and all his land ; or else, for the third, to pay the king three pounds."*

The consequences of being capitally convicted, so far as relates to forfeiture, are the following, by an ordinance of the council and Keys in 1504: "*All felons goods, as horses, mares, oxen, and kine above two years old, belong to the lord, and those that are two years and under to the coroner.*"

By a record in the *Liber Scaccarii* \*, it appears that in case a person under the age of fourteen years shall be arraigned for felony, the deemsters shall not proceed to trial, but shall cause the prisoner to be whipped at the governor's pleasure.

It is remarkable, and certainly redounds greatly to the honour of Manksmen, that since the revesting act of the island in the British crown in 1765, his Majesty has had few opportunities of exercising one of the most amiable of his prerogatives, there having been only two insular capital convictions, in the long period of half a century.

\* A. D. 1601;

OF THE COURT OF COMMON LAW, AND TRIAL  
BY JURY.

THE trial by jury or *per pais* having been used in all countries which adopted the feudal system, so in this island, from remote antiquity, a jury of four "*boni homines*" from every parish, like the Gothic *nembda*, which was collected out of every quarter of the country, "*binos, trinos, vel etiam senos, ex singulis territorii quadrantibus \**," were summoned to serve on the "*great inquest*," and part of their duty, after a charge from the deemsters in the Celtic or Manks language (which is continued to this day), consisted in presenting to the deemsters in open court, every offence against the community that had been committed since the last court. It was especially their duty to present those who had abjured the land, and had returned again without the lord's special pardon and license, and also to present the coroners and petty officers who neglected their duty, and all mechanics who did not execute their occupations according to the old laws.

With regard to the establishment of the trial by jury in this place, of what remote date or time soever it might be, it is more than probable that no conquest or change of government did ever abolish it; indeed, so universal was the practice of investigating all differences and wrongs by a jury, that the act of Tynwald † which

\* *Stiernhook, de jure Goth. l. 1, c. 4.*

† *Appendix, common law court.*

points out the mode of prosecuting causes at common law, has a particular reference to the ancient proceeding of trespass juries, and juries of inquiry, which this act directs shall not be altered. These juries consist of four men, occasionally summoned by one of the deemsters out of the parish where any trespass has been committed, or any loss sustained; and it is their province, in the one case, to view and estimate the damages done, and, in the other, to endeavour to discover what was lost, and the person who had taken away or concealed the same; for which purpose all the neighbourhood may be summoned before the jury, and every individual is either to acquit himself by his oath, or to be held convicted by his refusal.

The above statute also alludes to the great inquest, and also to another species of trial per pais, called the long jury, but directs that all proceedings thereby shall cease, and that all matters which were formerly cognizable before them shall be tried at the common law court.

The ancient proceedings of this court prescribe, that the coroner of Glanfaba, who takes precedence of all the others, shall open the court with the following proclamation in the Manks language: "*Tha mee chur y quaaill fo harey ayns ennym y rhee nagh jen pegeagh erbee thrushey baggart ny burranys, agh dhy jen dhy chooiley chooiney phreggert myr vys e er ny eam. Tha mee chur recoartys er yn Eanish dhy vel y quaaill fo harey.*"—"I do fence this court, that no manner of person do quarrel, or brawl, or

*molest the audience, and that they do answer when called by license of the king and this court. I draw witness to the whole audience that the court is fenced."*

The statute of 1788 regarding the limitation of actions, specifies that all actions, of what nature soever, which shall be commenced at any of the temporal courts, must be prosecuted within three years next after the cause of such action, except actions of assault, battery, wounding, imprisonment, or for slander, which must be commenced within two years; and also in the case of persons under age, under coverture, non compos mentis, imprisoned, or beyond the seas, who are to prosecute after their respective impediments are removed within the times before limited.

At the next term, or common law court, after the declaration is filed, the defendant is bound to plead and join issue, or otherwise the plaintiff may join issue for him; for the nicety and exactness of special pleading, which is so essential in England, is here in a great measure disregarded, the forms of the court requiring the declaration to be merely a plain simple statement of the plaintiff's case, and either party may offer such testimony as the court shall deem relevant to the matter in question. And in all cases where a special plea is not offered, the general issue is always implied, and the special matter is given in evidence. With respect to the witnesses, they are compelled to attend, when summoned by the coroner or lockman on the deemster's warrant, on pain of being subject to a fine, and to such costs

OF THE DEEMSTERS, AND THE PRACTICE OF  
THEIR COURTS.

THE deemsters of the Isle of Man are judges of the highest antiquity, and, till the passing of certain modern acts of Tynwald, which have abridged their authority, possessed an higher magisterial power, both in the administration of the common and criminal law of the land, than any other judges in Europe. It is recorded that they governed the people by a *jus non scriptum*, which was committed to their loyalty and fidelity as a thing holy and sacred, and by them communicated to posterity by oral tradition; consequently, whatever they juridically pronounced was received as law: and this custom they received from the Druids, who, as observed by Cæsar\*, were peculiarly remarkable for their proficiency in the study of the law, and would not by writing prostitute any thing to the vulgar; whence, from all antiquity, and even to a recent period, the Manks designated their common law by the title of breast-laws, as being deposited in the breasts of their deemsters and keys, and which only on important occasions were divulged to the people.

It is recorded in an ancient ordinance of Sir John Stanley, King of Man, in 1422, in these words: "As to the writing of laws, there never was any written since King Orrey's days,

\* Com. l. 6. et de Bello Gall. 6. 12.

but in the time of Michael Blundel, that we have knowledge of\*."

The deemsters were always the lord's chief judges of the common law, and privy-councillors; in the ancient court rolls they are styled "Justiciarii domini regis;" and to this day, in civil matters, their jurisdiction is most extensive and unlimited; and in all public acts and instruments of legislation, they sign their names apart from the other officers. From whence, and from the nature of their oath, it may be inferred, that the deemsters are not in strictness members of council, but attend the meetings of that body to give their advice, bearing a resemblance to the attendance of the twelve judges upon the House of Lords.

The following oath is administered on a deemsters' appointment. "*By this book, and by the holy contents thereof, and by the wonderful works that God hath miraculously wrought in heaven above, and in the earth beneath, in six days and seven nights; I John Lace do swear, that I will, without respect of favour or friendship, love or gain, consanguinity or affinity, envy or malice, execute the laws of this isle justly, betwixt our sovereign lord the King, and his subjects within this isle, and betwixt party and party, as indifferently as the herring's back-bone doth lie in the midst of the fish.*"

Owing to the longitudinal formation of the island, the deemsters were always two in number; and their situation, for the more conve-

\* Orrey reigned in the tenth century, and was the first king of the Danish line.



nient administration of justice, is at the north and south districts, where all matters of litigation that can arise, either by the trespasses \*, slanders, assaults, batteries, debts, contracts or dealings of the inhabitants, are weekly, or oftener, heard and determined by them without the intervention of a jury; but from their judgment an appeal lies to the governor in council.

By the practice of the deemsters' court, if any person has cause of complaint against another, he must apply to the deemster for a summons or process, requiring the defendant to appear at the next court, together with a summons for witnesses. This process must be served on the defendant by the coroner, or left at his usual place of abode, three days before the sitting of the court, unless in cases of violent assault and battery, or other urgent matter, when a summons on the day before the holding of the court has been deemed sufficient. On the day appointed, the cause is called in its order by the deemster, and repeated aloud by the coroner. In case the defendant neglects to appear and answer, the plaintiff or his advocate moves the deemster for a presentment against him, which is forthwith granted, and a constable awarded by the governor. At the succeeding court, the defendant is brought up in the custody of the constable; and, in like manner, should a witness neglect or refuse to appear, a presentment issues against him, and

\* See the trespass act of 1753, and its various and extensive summary powers, in Appendix.

he is brought up in custody of the constable. It has been an ancient custom in the island, that if a person finds his adversary present, while the court is sitting, he may take him by the arm, and bring him before the deemster, and set his foot upon his adversary's foot, and instantly plead his cause against the defendant; but this mode of proceeding has fallen into disuse.

The parties being now in court, the deemster hears their pleadings and allegations, or those of their advocates; examines the witnesses, or the parties themselves, upon oath, at his discretion; and, after this summary trial, immediately gives judgment, which is extended in writing under the deemster's signature; and before the rising of the court, is delivered to the party complainant, for the purpose of being enforced by the coroner. Or, as the case may be, the deemster dismisses the complaint, with such costs to be paid by either party, as he shall think reasonable to adjudge.

In matters of importance, it is usual to present a petition, stating the circumstances of the plaintiff's case, and which prays a hearing at the next court. Upon this petition, the deemster grants an order for that purpose under his hand, which constitutes the coroner's authority, without other warrant, to summon the defendant and the witnesses. This petition and order are served upon the defendant three days before the court, and the same consequences attach against him for non-appearance as before stated.

After the ordinary causes have been heard, the deemster proceeds to hear those which are ordered to come on by petition; and this being done as before mentioned, he forthwith proceeds to give such judgment in writing, as the nature of the case may require. This judgment is final and conclusive on the parties, unless an appeal should be preferred by either of them to the governor, agreeable to the statute of 1736\*.

In order to get an allowance of the appeal by the deemster, it is necessary to present a short petition for that purpose; which being accepted, as it is termed, the case is brought on by petition to the governor, and heard and determined at the next appellate court. But in case the deemster should refuse to accept the appeal, the complainant may present a petition of doléance†, stating the circumstances of the case, and that the deemster had refused to accept the appeal, when the governor will, as a matter of course, grant an order for the cause to be heard before him.

In the deemster's court, there are many peculiar advantages, independent of the celerity and cheapness of obtaining justice. The judge, in particular cases, will elicit a discovery of facts, in the absence of better and more direct evidence, by the oaths of the parties to the cause. He will order the production of deeds or papers, which often precludes the necessity of a bill in equity. And in all disputes be-

\* Appendix, Appeal.

† From the Latin, *dolar*.

tween landlord and tenant, or respecting the right to the possession of lands and premises, the cause is heard in a summary way; and, in the latter case, the deemster, by his judgment, orders immediate possession to be given by the coroner.

Upon the sale of any commodity, the receipt of the smallest sum by the seller, or the delivery of a handful of hay or straw by the seller, to the purchaser, is sufficient to bind the bargain; and the deemster will enforce a performance thereof, unless there was a manifest imposition on the part of the seller in his description of the commodity, in which case the deemster will order the thing to be returned, and the consideration money restored; and in all cases, the simple personal promise, or engagement, to answer for the debt or default of another, is denominated bail for the principal, and is binding to all intents and purposes, without a note in writing. It is requisite to observe, that all notes or other engagements in writing, are, by the laws of the island, deemed specialties, and although they take no precedence over simple contract creditors, they cannot be vacated by oral testimony\*.

With respect to prosecutions for slander, &c. they are usually commenced in the deemster's court, under the statute of 1738, which directs, that "in all complaints of slanderous words, the party defamed, or any informer of a slander, shall be obliged to make a declaration of

\* There is no such law as the English statute of frauds and perjuries, in the Isle of Man.

the slanderous words before a proper judge or magistrate, within fifteen days after the speaking or uttering the same, in order to a prosecution; otherwise, such complaints of slander not to proceed at any time afterwards."

And by a statute in the preceding year, "it is ordained, that after slanderers and defamers are found guilty, either in the temporal or spiritual court, as the matter shall be properly cognizable, the person slandered shall not only recover his costs by action at law, but also such further damages as shall be suitable to the injury sustained, and the ability of the defamer."

**HIGH-BAILIFFS.**

WITH respect to the office of high-bailiff of the four towns of Castletown, Douglas, Peel, and Ramsay, the institution is modern, and was constituted by the act of Tynwald of 1777\*. This office is held by commission from the governor during pleasure.

By virtue of the high-bailiff's office, he is conservator of the peace, and superintendent of the police, and has jurisdiction in all matters of debt under forty shillings. He is also empowered to take the acknowledgment of parties, or testimony of witnesses, for the probate of all deeds or instruments brought before him.

\* Appendix, High-bailiffs.

**OF THE OFFICE OF WATER-BAILIFF, OR JUDGE  
OF THE COURT OF ADMIRALTY.**

By the constitution of the island, the office of admiral, or water-bailiff, was always held of high importance, and, from time immemorial, he was one of the king's or governor's council.

As sole judge of the admiralty court, which is usually held every Saturday, he holds cognizance of all pleas of the crown, respecting maritime concerns and offences committed on the seas, within the distance of three leagues from the shore of the island. And, according to the ancient statutes, has a superintendence over all matters relative to the herring-fishery.

In all civil suits an appeal lies from his determination to the governor.

Respecting the practice of the water-bailiff's court: when any person intends to commence a suit therein, he must apply either verbally, or by petition, which must state the cause of complaint. A summons is thereupon granted, compelling the defendant to appear at the next court, when the witnesses are examined *vivâ voce*, and the cause is heard and determined, either with or without the intervention of a jury, at the discretion of the judge. Should the cause require a jury, the water-bailiff issues a warrant to the coroner, requiring him to summon four persons out of his sheading, who must attend at the time appointed, to hear the evi-

dence, and give their unanimous verdict, on which a decree is pronounced by the judge.

But in all cases of a criminal nature, a jury of six men must be summoned by the coroner, whose verdict must be unanimous.



## OF THE CORONERS, THEIR OFFICE AND DUTY:

THE coroners, or annos\*, are officers of the greatest antiquity, with powers analagous in many respects to the English sheriffs. Over each of the six sheadings, or great divisions of the island, the governor appoints one coroner, who is not only a ministerial officer, but a conservator of the peace throughout his district, with power to raise the country for its civil defence, and the suppression of riots; and by virtue of several old ordinances and statutes, he is to continue in office no longer than one year.

At the Midsummer Tynwald court, he must resign his wand, the insignia of his office, to the governor; and he is immediately succeeded by the person appointed by the governor in his stead; he having first taken the solemn oath of office before the governor, on his knees, and received from him the decorated wand, which constitutes his only warrant and authority.

The Manks coroner has also the power of taking inquests, like the coroners in England, to find out the cause of sudden or violent deaths, *super visum corporis*.

In his ministerial capacity, the coroner is bound to summon juries, to execute process

\* The Manks designation of a coroner, is "Toshiach Jeoro," or "chief man of the law;" similar to the "Tosio derach" of the M'Alpine laws of Scotland.

issuing from the governor, the judges, or courts of justice; and he has authority to sell, after the legal forms are gone through, such effects as he has arrested, or distrained in the first instance.

In criminal matters, or for breach of the peace, he may arrest by virtue of his office, and without a warrant; and the party breaking the peace, or who strikes or obstructs the coroner in the execution of his office, besides incurring imprisonment, forfeits three pounds to the lord\*. Like the English sheriff, he must execute the sentence of the judge, though it should extend to death.

If a coroner should happen to die within the year of his office, his rod must be taken from his house by a constable, and carried to the governor, who will immediately appoint another to be sworn, and to act for the remainder of the year.

The coroner of Glanfaba takes precedence of all the other coroners, and it is his duty to serve all process against his brother coroners; and in case any complaint should be alleged against him, the summons to answer it is, by a special order, directed to some of the other coroners, or to the lockman of the parish in which he resides.

It is also the coroner's duty to assist in the salvage and sale of wrecks†, belonging to the crown or the lord. In order that the coroner

\* Liber Cancel. 1584.

† By ancient custom, the salvors of any goods taken up at sea, and brought on shore, and delivered to the proper officer, get one half of the value thereof.

may be enabled to execute these various duties, he has under him a deputy in each parish, called a Lockman.

There is also in each parish in the island, an ancient officer called a Moar, who collects the rents and fines due to the lord, and also the escheats, deodands, waifs, and estrays, for the lord's use. The moar also executes the precepts of the baron court.

By the statute of 1442, fourpence shall be paid yearly out of every quarter-land to the coroner, and twopence for cottages and intacks of above three shillings and fourpence rent.

The coroner is also entitled to the horses, mares, oxen, and kine, of two years old and under, the property of felons, and to their sheep of one year old and under, as well as to their broken stack of oats : and also to the carts appertaining to a heir convicted of felony ; and he is also entitled to the broken stack of corn, and beasts of three years old and under, the property of a felo de se.

**OF THE RIGHTS AND PREROGATIVES OF HIS  
GRACE THE DUKE OF ATHOLL, AS LORD OF  
THE SEIGNORY OF MAN, AND PARTICULARLY WITH RESPECT TO GAME.**

AFTER what has been said on the subject of the ancient constitution of the island, it will be unnecessary to revert to the arbitrary ordinances, or positive laws of other countries, in order to exemplify the exclusive right of the Duke of Atholl, as lord of Man, to certain franchises or royal prerogatives, usually incident to sovereign authority; such as the patronage of the bishoprick, escheats, effects of traitors and felons, wrecks of the sea\*, estrays, deodands, mines, derelict lands, chases (which word comprises, in the fullest extent, the exclusive right to game), forests, parks, warrens, huntings, piscaries, &c. &c.;—it may be sufficient to shew, that by the British act, which revested the sovereignty of the island in the crown, in the year 1765, these royal franchises are, in the fullest manner, reserved to the noble family of Atholl in perpetuity; under the honorary service of rendering to his Majesty, his heirs and successors, two falcons, on the days of their respective coronations.

Since the revesting act, the Duke of Atholl's

\* It has been contended by the law-officers for the crown, that, notwithstanding this exception, articles coming under the description of jetsam, flotsam, and legan, will not pass, although they were uniformly appropriated to the lord, previous to the revesting act.

interest in the island is a seignory, or lordship paramount, of the highest order; because, independent of its unique reserved regal privileges, it is held immediately under the sovereign; it has, therefore, been very improperly designated a manor; for a manor or lordship, in the early times of the legal constitution of England, was frequently granted by the great barons to inferior persons, to be held *mediately* through them, and not *immediately* under the crown\*.

With respect to one branch of the above reserved prerogatives, viz. animals *feræ naturæ*, or what are commonly known by the denomination of game, the *exclusive* right thereto, as appears by all the records, was immemorially vested in the king or lord of Man only, and had its origin in the feudal policy. In most nations, the prerogative of hunting and taking game has, for various reasons, been invested in the sovereign, or such only as he should authorize; and the chief reason for this sole investiture appears to have been for preventing popular insurrections, by disarming the bulk of the people†. These prohibitions are not any natural injustice, for, it is observed by Puffendorf, that the law does not hereby take from any man his present property, but barely abridges him of one means of acquiring a future property. By the law of England, no man, but he who has a chase or free warren, by grant from the crown, or by prescription,

\* Black. Com. Book II. p. 91.

† Warburton's Alliance, 324.

which presumes a grant, or some authority by act of parliament, can justify, in strictness of the common law, sporting at all; for the sole right of taking and destroying game, belongs exclusively to the king, or those who, under his authority, have a royal franchise of chase, free warren, park, or free fishery; notwithstanding the introduction of new penalties by certain statutes (like the act of Tynwald, made for preserving the game), and which merely exempt such as are vulgarly termed qualified persons from the modern penalties: For killing game, without a grant of chase, or free warren, is still in strictness, an encroachment on the royal prerogative; and, although a person so encroaching may be exempt from the penalties of the game statutes, he is not only liable to an action of trespass by the owner of the land, but also, if he kills game within the limits of any royal franchise, to the action of such who may have the right of chase or free warren\*.

—With these preliminary observations, there can be no difficulty in asserting, that the sole and exclusive right to the game (which is invariably called, in all the ancient ordinances, and acts of Tynwald, the lord's game), or the right to animals, *feræ naturæ*, in the island, is undoubtedly vested in the Duke of Atholl, as lord and original proprietor, through his ancestors and predecessors, of all the lands in the island; with the exception of the lord bishop, in respect of his barony (which may imply a right or grant of chase or free warren in the

\* Blackstone, Com. 6. 2. ch. 27.

bishop's lands by prescription), and except the members of the council, and the Twenty-four Keys, by ancient ordinance or prescription, and the proprietor of the barony of St Trinions, which also may imply a right of chase by prescription; and that no other persons have any legal right to pursue or kill game, much less to authorize or license another to do it. This power, both by the common and statute law, is vested in the Duke, in his different characters of lord, and his Majesty's governor-in-chief. And of this opinion were the English attorney and solicitor-general, in their report on the Duke of Atholl's bill, in the year 1780, which is comprised in the following words :

“ With respect to the game, it appears to us, all rights and privileges respecting the game, were intended to be reserved, and therefore it may be proper to declare the same by the bill; and that the right to grant licenses, or give permission to kill the game, belongs to the Duke of Atholl, or his seneschal or steward, and not to the governor, or lieutenant-governor of the isle.”

In addition to this opinion, the commissioners of inquiry for the Isle of Man, say, “ no doubt has been entertained of the lord's right in matters of game, prior to the revesting act, nor is it at all affected by that act.”

The act of Tynwald of 1763, which laid a tax on dogs, provides, “ that it shall not affect the lord's right and prerogative to the game of this isle, and the licensing of game-dogs, as formerly accustomed.”

The statute of 1776, lays an annual tax of six shillings on dogs, used for coursing, pointing, setting, or shooting; of three shillings on dogs used for hunting; and of other dogs sixpence;—to be applied to the use of the highways.

It remains to observe on the subject of game, that although no man in the island, with the exceptions before mentioned, has authority to kill game without the lord's license, yet no person whatever, except the Duke of Atholl, can pursue or kill game upon the estate of another, without committing a trespass, and consequently without subjecting himself to an action at law.



## ON THE ECCLESIASTICAL LAWS.

THE Manks church was founded by Saint Patrick, in the year 444, and was indebted to Germanus, the first bishop of Man, and the three kingdoms, for the introduction of the liturgy of the Lateran, and for those principles and maxims of religious polity, which characterized the primitive churches of the west.—Historians agree, that Germanus was succeeded by a series of bishops, who were most eminent for their singular piety and learning, and for the austerity of their lives and manners.

Upon the first Norwegian dynasty in the island, which was established near the end of the eleventh century, the bishoprick, under the metropolitan of Drontheim, united the titles of Sodor and Man, which form of title is continued to this day; notwithstanding, the jurisdiction, as *Episcopus Sodorensis*, has been discontinued ever since the island was conquered by the English; from which period to the present time, the kings and lords of Man have nominated their own bishops.

Sodor, according to Boethius, 'was a town adjoining the celebrated monastery and cathedral of the bishop of the isles, called Ilcolmkill, dedicated to our Saviour, from the Greek, *Soter*, afterwards corrupted to Sodor; and where so many of the Scottish, Irish, and Manks kings have been interred\*. But, ac-

\* Beatson's Pol. Index.

according to Dr Macpherson, the title of the prelate has been mistaken; he says, that "during the time the Norwegians were in possession of the Hebrides, they made a civil division of them into the northern, which they called Nordereys, from *norder*, north, and *ey* an island, while the Sudereys took in those that lay to the south of the promontory of Ardnamurchan: hence Sodor, or the Sodoreys, meant no more than that portion of the Hebrides annexed to the see of Man\*."

It appears, by an extract of a record or bull of Pope Gregory, dated August the 30th 1231, (the island having been surrendered to the Pope by King Reginald, as before mentioned, in the year 1219) that he granted to the bishop "Holme, Sodor, or Pile, in which the cathedral church is situate, with all and singular the ecclesiastical appurtenances thereto belonging, together with one-third part of all the tithes within the isle."

The roll of the ancient Abbey of Rushen informs us, that Bishop Simon held a synod in the year 1239, in which thirteen canons were enacted, chiefly relating to the probate of wills, the rights of the clergy, tithes, &c. to which were added, by Galeoredinus (who had been appointed Bishop of Sodor and Man by Alexander King of Scotland) thirty-five canons.

In the year 1348, William Russel, after his consecration by Pope Clement the Sixth at Avignon, held a synod at Kirk-Michael, and added five articles to the former canons.

\* The diocese of the Isle of Man was separated from the Hebrides in the time of Edward I.

Thomas, Earl of Derby, and King of Man and the Isles, in the year 1505, confirmed, by grant to Bishop Huan, great ecclesiastical privileges and estates, as appears by the instrument in the Appendix, extracted from Dugdale's Monasticon.

In the year 1577, the learned John Merrick was sworn bishop of the isle: this prelate furnished Mr Camden with the account of the kings and bishops of Man, as contained in his Britannia, and which affords the most authentic data now in existence, since the destruction of the records.

The Bishop of Man, besides his spiritual jurisdiction, is sole baron in the isle under his Grace the Duke of Atholl, and is entitled to a seat, but not to a vote in the British House of Lords, not being an English baron, and because he holds his barony from a subject, and not under the crown. Should, however, the right of nomination, at any future period, be invested in the sovereign, then the bishop, it is presumed, would have a right to vote in the House of Lords, as a baron under the crown.

The King or Lord of Man was, in the ancient records, styled metropolitan and chief of the holy church; of course, no lapse could occur against him for not presenting.

When the bishoprick becomes vacant, the Duke of Atholl, as Lord of Man, nominates a successor, and presents him to his Majesty for his royal assent, and afterwards to the Archbishop of York for consecration. The bishop, as next in rank to the lord, has a seat in the courts of chancery and exchequer, and,

after the governor, is the first person of his Majesty's council in the island ; and he has the highest seat in the lower house of convocation in England. All ecclesiastical causes and affairs relative to wills, administrations, legacies, minors' effects, alimony, debts and credits of deceased persons, arising within a year and a day from the time of granting administration or proving the will, are either heard and determined by his lordship, if he pleases to be present, or by his vicars-general as his assessors (who are in the nature of chancellors to the bishop), and a register, who compose a consistory court, and where all suits relative to bastardy, church assessments, defamation, &c. are also cognizable. The proceedings in the ecclesiastical court, when not otherwise noticed by the local laws, are regulated conformably to those in England, "*juxta legem divinum et canones sanctæ ecclesiæ*," whose forms of practice are derived from, and in a great measure conformable to those of the Roman civil or canon laws. The criminal jurisdiction extends to such offences against God and religion, as are not subject to coercion by the magistrates in the other courts of the isle, under the authority of ancient ordinances or acts of Tynwald, and which will be noticed in the Appendix. With respect to the crime of drunkenness, it may be punished in a summary way by any magistrate, although it is strictly and properly under the ecclesiastical jurisdiction.

The archdeacon is the second spiritual magistrate in the island, and he has, in all inferior cases, alternate jurisdiction with the bishop,

The archdeacon enjoys many privileges, both temporal and spiritual, and he holds his courts either in person or by his official, as the bishop does by his vicars-general; but the usual appeal, in matters purely ecclesiastical, lies from all these courts to the metropolitan, the Archbishop of York (to which see the bishoprick of Man was transferred from Canterbury by an act of 33d Henry 8th), and in all temporal and civil affairs, to the staff of government.

In right of his barony, the bishop enjoyed the privilege of keeping a temporal and baron court for his tenants, at which a deemster presided as judge under his lordship, and he is assisted by a steward appointed by the bishop. To this court the bishop's serjeant summons twelve of the tenants to serve as a great inquest, and to try all actions between the tenants for lands, trespasses, monies, goods, or merchandize, but subject to appeal as in the other temporal courts; and the fines or amerciaments are levied for the bishop's use. Should any felony be committed by a tenant, he must be tried at this court; and, in case of conviction, and the felon bear no suit or service to the lord of the isle, his lands and goods are forfeited to the bishop, and his life is at the mercy of his Majesty.

Similar privileges are also invested in the steward of the lands anciently under the jurisdiction of the abbot of Rushen. This court was usually held in the months of May and October, and is summoned by the steward's

precept, at which court the governor and other chief officers may preside.

With respect to the clergy of the isle, they are usually educated at an academy in Castle Town, founded by Bishop Barrow, who, with Charles, Earl of Derby, by a grant in the year 1673, appropriated the profits of a former vacancy of the bishoprick to the foundation of an academic school, and nominated Messrs Leigh of Lyme, and Cholmondeley of Vale Royal in Cheshire, and their heirs, perpetual trustees, with power to grant licenses to the professors.

Bishop Barrow also, by grant executed in the year 1668, gave two valuable estates in the island, called Ballagilly and Hango Hill, for the use and benefit of the scholars of the free school of Castle Town; reserving a power, during his life, of disposing of the said estates to any other good use in the island; and appointed the lord bishop, the archdeacon, or, in their absence, the vicars-general and the official, and four more of the chief temporal officers of the isle for the time being, whereof the governor to be always one, feoffees in trust for the same.

The bishop by his will, dated 14th December 1679, gave the said estates "towards the maintenance of three boys at the academical school, when it shall be there settled. And in case there shall be no such school within twelve months after his death, then to go towards the maintenance of two boys of most pregnant parts at some university abroad; in the meantime to be employed as it is. And these boys

to be chosen after his decease by the bishop and archdeacon *pro tempore*, the governor or his deputy, and the two senior clergymen (not in office) in the island, or any four of them, whereof the bishop to be always one if present. And his intention was, that these boys be by their education settled, for the supply of the clergy in the island, upon the vacancy of any living; but that no boy should be taken, till security be given by his friends, that upon the call of the bishop he shall immediately take holy orders, and supply the vacant living, or pay back such money as he hath received of this gift till that time, such money to be applied for the benefit of the church, in such manner as the persons nominated for the choice of the boys shall agree."

OF HUSBAND AND WIFE, PARENT AND CHILD,  
GUARDIAN AND WARD.

WHEN a marriage is duly contracted and solemnized in the manner prescribed by the act of Tynwald of 1757 \*, and according to the English rubric and the canons of 1703 relating to marriages, it cannot be positively dissolved by any court or process known to the Manks law, except by the uncircumscribed powers of an act of Tynwald; for a divorce *a mensâ et toro* does not vacate the conjugal union, although the wife is thereby rendered solely responsible to creditors, of which alimony is a consequence.

With regard to the legal consequences of matrimony as far as relates to lands of inheritance, they have been already noticed under the head of Modern Manks Tenures. With respect to mere personal property, although the husband has the disposition thereof during the joint lives of himself and wife, yet, in this instance, it will also appear with what extraordinary favour the Manks law has regarded females; for, at the husband's decease, one moiety of the personal estate with which he died possessed becomes the property of the widow, subject to the debts owing by the deceased; and the wife may, in the lifetime of her husband, give by will a moiety of his purchased lands and personal estate to any issue

\* Appendix, Marriage Act.



of her body, even those by a former husband, although the property was solely acquired by the second husband; but should the wife die before her husband without issue, the personal property remains wholly with the husband; and in case she leaves children, they, at the age of fourteen, are entitled to, and may sue for their respective shares of the personality. These relative rights may, notwithstanding, be altered or annihilated by any settlement or agreement in writing which may be made by the parties, either before or after marriage.

The husband is not only subject to debts contracted by his wife before marriage, but also to debts contracted by her for necessities after the marriage, except she elopes from him, or has a separate maintenance, and then he is not chargeable. But if the husband without cause discards his wife, he will be liable to pay for necessities provided for her; for, by the moral and positive laws of all civilized countries, he is bound to maintain her.

As to crimes and misdemeanors, if the husband commits a felony, by which his part of the personal goods is forfeited to the lord, yet the wife shall not forfeit her part thereof, and *vice versa* if the wife commits felony; although in the latter case the husband becomes accessory by receiving his guilty wife, in consequence of which rigorous law, he is equally liable to all the penal consequences, unless he adopts the alternative of discarding her.

The next great domestic relation to be mentioned is that of parent and child. In the Isle of Man children arrive at the age of majority

when they have completed fourteen years, so far as relates to personal property, to the possession of which they are then entitled ; and at this period the legal power of the parent or guardian ceases (except with regard to marriage), and the child may dispose of himself and his effects at pleasure, and, may sue for assets in the ecclesiastical court ; at this age he may also be sued for any debts contracted by him ; but he must attain the age of twenty-one years before he is entitled to the possession of real property, or can recover the same by suit in the common law courts.

By an ordinance of 1585, " The deemsters, with the advice of the Twenty-four Keys, give for law, that it is not lawful for any overseer (or guardian) to sell the cottage or farm-ground of any infant for any longer term than during his minority, that is to say, until he be fourteen years old, except in case of extremity, that is, when there are no other goods left to pay debts, or bring up the children, and that all other friends refuse to bring them up. In this case it is lawful for the overseer to set or sell at his pleasure, and not otherwise."

With respect to a guardian, he has a complete interest and authority in the estate of the ward during the continuance of his power and trust ; he therefore may receive the rents and profits for the heir's use, and may lease during the minority, and bring an action of trespass in his own name.

By the Manks law a parent may by will appoint a guardian for the child during its mino-

uity, and when this is not done, the chancellor, on petition, has authority to appoint him, as to real property, until the ward attains the age of twenty-one, and as to personal effects, until the age of fourteen years \*.

\* Appen. Children.

## APPENDIX.



## APPENDIX.

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### ACT OF SETTLEMENT

AND

### ACT EXPLANATORY THEREOF.

**An Act for the perfect Settling and Confirmation of the Estates, Tenures, Fines, Rents, Suits, and Services of the Tenants of the Right Honourable JAMES, Earl of Derby, within the Isle of Man, passed at a Tynwald Court, holden at St John's Chapel, within the said Isle, the 4th day of February, in the year of our Lord 1703, by the said JAMES, Earl of Derby, Lord of the said Isle, ROBERT MAWDSLEY, Esq. Governor, and the rest of his said Lordship's officers, and Twenty-four Keys, the representatives of the said Isle.**

**WHEREAS** several disputes, questions, and differences have heretofore arisen and been contested between the lords of the said isle and their tenants, touching their estates, tenures, fines, rents, suits, and services, to the great prejudice of the lords, and impoverishment of the tenants and people there, who, by that

means, have been discouraged from making such improvements as their estates were and are capable of: For the absolute and perpetual ascertaining whereof, and the avoiding all ambiguities, doubts, and questions that may or might, at any time hereafter, arise, or grow, touching or concerning the same, proposals were made unto the said JAMES, Earl of Derby, now lord of the said isle, at Lathome, the 8th day of September last past, by Ewan Christian of Unerigg, in the county of Cumberland, Esq., John Stephenson of Balladoole, and Ewan Christian of Lewaige, within the said isle, gentlemen; who, (by an instrument under the hands of the Twenty-four Keys, now remaining upon record), were empowered to treat concerning the same, as well for and on behalf of themselves, as all and every the tenants within the said isle, in manner following:

First, That in case his Lordship would be pleased to declare and confirm unto his tenants their ancient customary estates of inheritance in their respective tenements, descendable from ancestor to heir, according to the laws and customs of the said isle, that then the said tenants should, in consideration thereof, advance and pay unto his said Lordship, the same fines which they severally and respectively paid for their several and respective tenements, at the general fining, which was in or about the year of our Lord 1643: except where any tenant, or tenants have, or hath one or more life, or lives in being; and that then, and in such case, he or they should severally and respectively pay two thirds only of the said general fine, for their respective tenements.

Secondly, That upon the change of any tenant, by death or alienation, the next succeeding heir or assignee, should pay unto the lord of the said isle for the time being, the third part of the said entire sum, which was paid for a fine at the said general fining, in manner following:---That is to say, In case of the change of

a tenant by death, then the said fine should be paid within twelve months after the death of such tenant : and in case of the change or removal of a tenant by alienation, then the same should be paid immediately after such alienation, made proportionably to the lands and tenements which should descend, or be aliened ; and this to continue forever hereafter, as a fixed and certain fine, upon every descent and alienation. Provided, nevertheless, that all intacks, cottages, and mills, which, by the laws and customs of the said isle, were, and are reputed chattels, might be chargeable with debts, and devisable by gift, grant, will, or assignment, as formerly accustomed, paying such fines respectively, as were paid at the general fining aforesaid : To wit, The whole fine where there were no lives in being, and two parts thereof only where there were and still are one or two lives in being ; and a third part of the said general fine, forever hereafter, upon every descent or alienation, as aforesaid.

Thirdly, That the tenants of the abbey lands, as well as the lord's tenants, should be included in the said proposals, they and every of them paying the same fines that were agreed for, upon their late compositions or leases, made in or about the year of our Lord 1666 (except such as have one or more life or lives yet in being, to pay two parts only of the said fine now), and a third part thereof always afterwards, upon the admittance of a new tenant, either upon death or alienation, as aforesaid ; and also yielding, paying, performing, and doing the annualrents, customs, suits, and services, as formerly and anciently accustomed ; and that the tithes arising out of the abbey demesnes, and reserved by James, late Earl of Derby, upon the composition by him made in the year 1643, and afterwards by Charles, late Earl of Derby, granted to Bishop Barrow (since deceased) and his successors, for the use of the clergy of the said isle, should be reserved, and forever hereafter payable to them.



Fourthly, That the double rents of the quarter-lands, as they were then payable, together with all other rents, suits, and services payable out of those, or any other estates within the said isle, should be reserved and payable forever hereafter, as formerly, to the said James, Earl of Derby, his heirs and assigns, or to such other person or persons as, for the time being, should be lord of the said isle; and that the ancient boons and carriages, payable by the respective tenants, should be considered at a Tynwald court.

Fifthly, That if any tenant should then after pass away any part of his estate, either to any of his children, or other person whatsoever, by gift, grant, assignment, or any other deed or contract whatsoever, whereby to divest himself of the premises, that the same should be esteemed and accounted as an alienation within the intendment of the said proposals: or if any tenant who then had mortgaged, or should thence after mortgage all, or any part of his messuages, lands, tenements, mills, cottages, intacks, or other hereditaments unto any person, and should not actually redeem the same to his own proper use within the space of five years next after the commencement of the said mortgage, that then such mortgage should be likewise looked upon, and reputed as an alienation; and the mortgagee should be admitted tenant, and his name entered into the court rolls, and should pay the third part of the general fine charged and chargeable upon the said messuages, lands, tenements, mills, cottages, intacks, and hereditaments so mortgaged, or to be mortgaged as aforesaid: Provided, nevertheless, that the mortgager shall have the power and liberty of redemption still remaining in him, and is to be restored to the possession of the premises by law, or order of the court of chancery, as the matter will appear in equity; so that the same may be done within the space of one-and-twenty years from the date of the said mortgage, and not otherwise. And that all bills of mort-

gage already made, or hereafter to be made, shall be entered into the records within six months after the passing of the said proposals into a law, or within six months next after such bills of mortgage were executed, otherwise such bills to be of no effect in the law.

Sixthly, That all new intacks, or enclosures taken out of the commons, and all mills erected since the the year 1643, that had not paid any fines, should have a reasonable fine set upon them by the governor, three of the lord's officers, and three of the Twenty-four Keys, to be appointed for that purpose; and that the fines so set by them, should be paid within six months next after the setting thereof; and that the third part of the said fine so to be set as aforesaid, should, forever hereafter, be paid upon the change of every tenant by death, alienation, or mortgage, as aforesaid.

Seventhly, That all intacks, or mills which should then after be enclosed or erected, should pay such fine and fines as should be agreed on by the governor and lord's officers, and that to be likewise a fixed and certain fine, to be forever hereafter paid by the tenants of the same, upon every descent or alienation, in manner aforesaid.

Eighthly, And that all such intacks and cottages as had been taken out of the highways adjoining the quarter-lands or other estates, but not belonging to the same, should not, nor were not intended to be included in the said proposals; but that such intacks and cottages (being complained of as great nuisances) should be referred to the consideration of a Tynwald court, to determine where the rents and fines of, and for such intacks and cottages, might most conveniently be fixed.

Ninthly, That whereas the fine lately paid out of the estate called Lough Mallow and Dry Closes, was

not comprized in the general fining in the said year 1643, the same being since that time leased by the Right Honourable Charles, late Earl of Derby, it was therefore (upon special consideration had) proposed that the said estate should only pay one hundred and twenty pounds for the present fine; but if any of the lives nominated in the said lease, made thereof by the said late Earl Charles, should be found to be still in being, then only two third parts of the said one hundred and twenty pounds should be paid as a present fine; and a third part of the said one hundred and twenty pounds should, forever hereafter, be paid as a fixed and certain fine, upon the change of any tenant by death, alienation, or mortgage, as aforesaid.

Tenthly, That the present fines should be accepted and received according to the currency of money then within the said isle; and that one third part thereof should be paid within six months next, after the passing of this act: another third part should be paid at the end of twelve months now next ensuing; and the last payment to be made within six months then next following, so that the whole should be paid within eighteen months next after the passing of this act.

Eleventhly, That the ancient rents (except only of such lands as were then in the lords hands) should, for the future, be preserved by the setting quest; and that the tenants' names should be entered in the court rolls as formerly; and that when any tenant should come to any estate by death, alienation, or mortgage, such tenant should be obliged to give notice thereof to the setting quest of the parish where such estate lay, some time before the next sheading court that should be holden after he became tenant to the said estate, to the intent that the said inquest might present the said tenant's name to the court (which they should, upon oath, be obliged to do, at every sheading court, as oft as any such should happen), to the end that such tenant's name might be entered upon record, either by

himself, or some other person in his behalf, whereby the lord's fines might be had and received, at such time, and in such manner as are herein before, for that purpose, limited and appointed, without fraud or concealment; and if the said tenant should refuse, or fail to have his name entered accordingly at the said court, that then such tenant so refusing, or neglecting, should be fined three pounds to the lord, for the time being; and that upon the change of any tenant, by death, alienation, or mortgage, one single person, and no more, should be admitted, unless he became tenant in the right of his wife, and not otherwise.

And lastly, That all the before mentioned proposals, and every matter and thing therein contained, should forthwith be passed into a law, and confirmed by the authority of a Tynwald court, saving always to the lord all such royalties and regalties, in and concerning the premises, as were invested in his lordship, by virtue of his prerogatives within the said isle. And the said James, Earl of Derby, out of his great zeal and care for the welfare and quiet of his people, and to the end that such establishment might be treated and agreed upon, as might complete and forever confirm a constant mutual love and friendship between the lords of the said isle and their people, did nominate and appoint the forenamed Robert Mawdesley, Thomas, Lord Bishop of Sodor and Man, and Nicholas Starkie, Esq. commissioners, to treat and consult with the said Ewan Christian, John Stephenson, and Ewan Christian of Lewaige, concerning the said proposals, which were consented and agreed unto by all parties commissioned for that purpose, (as in and by the said proposals, enrolled and remaining on record, in the comptroller's office, within the said isle, more at large, it doth and may appear), and the said Right Honourable James, Earl of Derby, and all and singular the tenants and inhabitants within the said isle, and members of the same, are contented and well pleased that

the said proposals, and all things therein contained, shall be ratified and confirmed by an act of Tynwald court.

May it therefore please your Lordship, that it may be enacted, and be it enacted by the said James, Earl of Derby, now lord of the said isle, by and with the advice and consent of the said governor, and the rest of his said lordship's officers, and by the Twenty-four Keys in this present Tynwald court assembled, and by the authority of the same, that the said proposals, and every clause, article, sentence, matter, and thing in the same contained, shall stand and be ratified, allowed, approved of and confirmed by the authority of this present Tynwald court; and that the said proposals shall stand and be of force to bind and conclude, as well the said James Earl of Derby, his heirs, and assigns, and all persons claiming, or to claim from, by, or under him or them, or to his use, or in trust for him, as the said Ewan Christian, John Stephenson, and Ewan Christian of Lewaige, and all and singular other the tenants and inhabitants within the said isle, their and every of their heirs and assigns, and all persons claiming, or to claim from, by, or under them, or any of them, or to or for their use, or in trust, for them or any of them, in all things, according to the purport, effect, and true meaning of the said proposals; and that every clause, article, sentence, matter, and thing in the said proposals contained, shall forever hereafter stand, be, and remain, and be adjudged and taken to be of such and the same force and effect, to all intents and purposes, as if the said proposals, and every clause, article, sentence, matter, and thing therein contained, were especially and particularly herein again expressed and repeated, and by the authority of this present court enacted.

And be it further enacted, ordained, and declared, by the authority aforesaid, that all estates made, or to be made of any messuages, lands, tenements, and he-

hereditaments within the said isle, or members of the same, to any person or persons, and his and their heirs shall be, and shall be adjudged, esteemed, and taken from the making or granting of such estates, to be good and perfect customary estates of inheritance, descendable from ancestor to heir, according to the laws and customs of the said isle (except such as are reputed chattels, as is before mentioned); and that all and every such person and persons, to whom any such customary lands, tenements, or hereditaments are, or shall be granted to him and his heirs, according to the laws and customs of the said isle, shall be, and shall be adjudged, esteemed, and taken, and are hereby declared to be seized thereof, as of good and perfect customary estates of inheritance, to them and their heirs, descendable from ancestor to heir, according to the customs of the said isle; and that all and every the said tenants of and within the said isle, and members of the same, as well all tenants in possession as in reversion, and remainder particularly or generally named, mentioned, or intended to be parties to the said proposals, and not hereby excluded, their and every of their respective heirs and assigns, shall, and may from henceforth forever, quietly and peaceably have, hold, and enjoy all their respective messuages, lands, tenements, and hereditaments, with their and every of their appurtenances, to them and to their heirs severally and respectively, as customary tenants of and within the said isle, against the said James, Earl of Derby, his heirs and assigns, and against all and every other person, or persons, claiming, or to claim from, by, or under him, them, or any of them: All and singular the tenants within the said isle, and members of the same, their heirs and assigns, and all and every other person or persons claiming, or to claim from, by, or under them, or any of them, respectively yielding, paying, performing, and doing unto the said James, Earl of Derby, his heirs and assigns, and all and every other the

lords of the said isle for the time being, such yearly rents, boons, suits, and services, as herein before are mentioned, and which now are or heretofore have been usually paid and performed; and also paying unto the said James, Earl of Derby, his heirs and assigns, such general and other fines certain, as in the said proposals are also for that purpose particularly mentioned and expressed: Saving always unto the said James, Earl of Derby, his heirs and assigns, and unto all and every other person and persons, that shall at any time hereafter become lords of the said isle, all such royalties, regalia, prerogatives, homages, fealties, escheats, forfeitures, seizures, mines, and minerals of what kind and nature soever, quarries, and delfs of flag, slate and stone, franchises, liberties, privileges, and jurisdictions whatsoever, as now are, or at any time heretofore have been invested in the said James, Earl of Derby, or in any of his ancestors, lords of the said isle; and saving, nevertheless, to all and every person and persons, bodies politic and corporate, their heirs and successors (other than the said James, Earl of Derby, his heirs and assigns), all such actions, estate, right, title, interest, use, trust, claim, and demand whatsoever, in law or equity, as they or any of them have, may, should, or ought to have of, into, or out of the said isle, or any part thereof, and in such sort and manner, as if this act had never been made: Provided that such person or persons, their heirs, executors, and administrators, do yield, pay, perform, and do unto the said James, Earl of Derby, his heirs and assigns, and to all and every other the lords of the said isle for the time being, the several yearly rents, boons, suits, and services, that have been accustomarily and usually paid for the estates, which they or any of them shall or may make any claim or title to, and do also pay unto the said lord and lords of the said isle for the time being, all such fines certain for the same, and in such manner and form as in the said proposals are particularly mentioned

and agreed unto, and not otherwise. And it is further provided, that nothing in the said saving shall impeach or be prejudicial to, or be construed to impeach or be prejudicial to the settlement of the nature and quality of the estates, tenures, fines, rents, suits, and services which hereby, and by the said proposals, are agreed upon and intended to be enacted, granted, and confirmed, any thing in the said saving to the contrary notwithstanding.

Note.—That it is agreed and consented unto by the governor, officers, and Twenty-four Keys aforesaid, at the signing hereof, that this act shall be no way construed and taken to free and discharge the tenants and inhabitants of this isle from giving their best assistance or supply for the defence of this isle in time of war or imminent danger, in such manner as shall be agreed upon by the governor, officers, and Twenty-four Keys of the island, for the time being, as occasion and necessity will require.”

The assent of James, Earl of Derby, then lord of Man and the Isles, was given, in usual form, to the foregoing act, excepting the clause therein contained respecting the tithes of the Abbey Demesnes; and the said act was promulged upon the Tynwald Hill, in usual form, the 6th of June 1704.



*Insula Monæ.*

Acts likewise passed by the Right Honourable JAMES, Earl of Derby, Lord of the said Isle, and by his Governor, Officers, and Twenty-four Keys, the Representatives thereof, at the before mentioned Court of Tynwald, holden the 4th day of February, Anno Domini 1703.

“ WHEREAS by a clause in the before mentioned act of settlement, the respective tenants and inhabitants of the said isle, are obliged to pay (besides their rents and fines therein mentioned and expressed) all other their dues, duties, and carriages, as have been formerly accustomed, and that the fixing and ascertaining of the said carriages is, by the said act, left to the consideration of a Tynwald court. Be it therefore ordered, ordained, enacted, and declared, by the authority of the said court of Tynwald, that the tenants and inhabitants of this isle shall pay and do their carriages to the lord, as formerly accustomed : That is to say, Four carriages from every quarter of land ; and one carriage from every cottage and intack holder within the said isle ; and the same to be performed either by the labour of horses, or service of men, as the governor shall think fit to order, and as hath been formerly accustomed ; and that these carriages shall be taken for the lord’s use, as his lordship, or the governor for the time being, shall think fit to employ them ; and that no tenant shall be exempt from doing of these carriages, but such as have been legally accustomed to be freed thereof. Also, whereas by another clause in the aforesaid act of settlement, all persons who then had mortgaged, or should thence after mortgage all or any part of his messuages, lands, tenements, mills, cottages, intacks, or other hereditaments, unto any per-

son, and should not actually redeem the same to his own proper use, within the space of five years next after the commencement of the said mortgage, that then such mortgage should be looked upon as an alienation, and the mortgagee admitted as tenant to the same, in such manner, and on such terms, as in and by the said clause is fully mentioned and expressed. And for as much as it is conceived that several fraudulent bargains may be made, by letting of lands, tenements, mills, cottages, intacks, and other hereditaments, for the security of money, under other notions than that of a mortgage, to defraud our honourable lord of his fine: Be it therefore ordered, ordained, and enacted, by the authority aforesaid, that all such bargains as shall hereafter be made, and given for the security of any sum of money, upon lands, tenements, mills, cottages, intacks, and other hereditaments as aforesaid, longer than for the term of five years, shall be declared and taken to be a mortgage within the intendment of the said act, unless the court of chancery, within this isle, shall adjudge it otherwise; and that the mortgagee shall be liable to pay such fine for the same, as in and by the said clause inserted in the said act is mentioned and declared. And also, whereas by another clause in the aforesaid act of settlement, it is mentioned and expressed that all such intacks and cottages as had been taken out of the highways adjoining to the quarter-lands, or other estates, but not belonging to the same, should not, nor were not intended to be included in the said act of settlement: but that such intacks and cottages (being complained of as great nuisances) should be referred to the consideration of a Tynwald court, to determine where the rents and fines of and for such intacks and cottages might most conveniently be fixed. Be it therefore hereby ordered, ordained, and enacted, by the authority aforesaid, that the rents and fines of all such cottages and intacks taken out of the highways adjoining to any quarter-lands, or other estates, whether

they belong to the lord or barons, being taken to rent in or since the year of our Lord, one thousand six hundred and ten, are to be paid by those farmers and tenants, or other persons unto whose lands and tenements these cottages and intacks do adjoin; and they to become tenants thenceforward to the lord for the said cottages and intacks, and that the said tenants and inhabitants dwelling in and possessing those cottages and intacks, shall henceforward become subtenants to the said farmers, tenants, and other persons, upon such reasonable terms as can be agreed upon betwixt them, or as shall be thought reasonable by the court of chancery of this island; and if any such cottage or intack holder do not submit to such terms as the court shall order therein, then such cottage or intack holder is to be ejected out of the said holding, and a jury of four men sworn to value what improvements he has made on the same, which said value (being approved of by the court) the said farmer, tenant, or other person, is to pay and reimburse unto the said cottage, or intack holder, and thereupon to be immediately possessed of the same, and have liberty to dispose of the said cottage or intack, to whom and to what uses he shall think fitting, provided always that such farmer, tenants, or other persons, unto whose lands such cottages or intacks do adjoin, complaining of such to be a nuisance, shall be obliged to make the same appear to be so, within eighteen months next after the date hereof, otherwise and in default thereof, the said cottage or intack holder shall have and enjoy the same on the like terms that other cottages and intacks are held and enjoyed within this isle, by virtue of the said act of settlement, without any disturbance of the said farmer, tenant, or other person, at any time after the said eighteen months are determined and expired. And it is likewise provided and declared, that all highways, out of which any intacks or cottages have been taken, that shall be found not to be eighteen feet broad, according

as the statute provides, shall be enlarged out of the said intacks or cottages (when complained of) at any time hereafter, any thing herein mentioned to the contrary notwithstanding. And whereas, in the saving part of the said act of settlement, it is mentioned and declared, that all quarries and delfs of flag, slate, and stone are reserved to his lordship and his heirs, as a royalty and prerogative belonging to them within this isle; which part of the said act seems to restrain the farmers and tenants of the said isle, from digging and getting such sort of common stone as might be necessary for building and making of other improvements on their estates and tenements: Be it therefore enacted, ordained, and declared, by the authority aforesaid, that notwithstanding the general words in the said act of settlement, that every tenant and farmer shall, nevertheless, have free liberty of digging, raising, and disposing of all sorts of stones and slates upon their respective tenements, as hath been formerly accustomed, so that they be employed only for their own use, and for the improvement of their own and neighbours estates and tenements; and that they shall not dispose or make merchandize of the same otherwise, without the licence or liberty of the lord or governor of the said isle first had and obtained for the same; and if any farmer or inhabitant, having a quarry or quarries of limestone, or other common stone, on his or their grounds, shall obstinately refuse or deny liberty to any other person or persons to dig or get such limestone or other stones for the improvement of his or their lands or tenements, or otherwise, without paying him a high and unreasonable consideration for the same, then and in such case, it shall and may be lawful for the governor of this isle, for the time being, to interpose, and order that such person or persons as stand in need of such limestones, or other stones, may dig, raise, and carry away as much as will be necessary for his or their use, paying unto the farmer or inhabitant,

on whose lands the same shall be so gotten, such moderate and reasonable satisfaction as the governor, in his discretion, shall think fit to order and allow.

Which said several acts of Tynwald, being now the basis of the tenure of the lands and hereditaments, and the true security of the real estates and premises within the said isle : Be it hereby declared and enacted by the permission and authority aforesaid, that the said act of settlement, and the said act of Tynwald explanatory thereof, herein before set forth, and every clause, article, matter, and thing therein and herein before contained, shall be, and the same are hereby ratified, confirmed, and binding, and effectual for and against all, and all manner of person and persons, lands, and hereditaments therein, and thereby meant, mentioned and intended, to all intents and purposes."

This act was promulged the 6th of June 1704.

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### *Action.*

*Action personal.*—"It is enacted, that all actions of trespass, or plaints in nature of actions of trespass between neighbours, committed in or upon each others lands, houses, grounds, or other properties ;—all actions or plaints in nature of actions, for wrongful detention of goods, chattels, or effects ;—all actions or plaints in nature of actions, for goods delivered or lost ;—all actions or plaints in nature of actions of account, and upon the case (other than for accounts current, which concern the trade or merchandize between the merchants and traders of this isle, and merchants and traders beyond sea, their factors or servants) ;—all actions or plaints in nature of actions of debt, grounded

upon any lending contract or demand without speciality ;—all actions of deceit and cozenage ;—all actions or complaints in nature of actions of assault, battery, wounding, or false imprisonment, or any of them ; and all other actions transitory or personal whatsoever, which shall be sued or brought in any of the temporal courts of this isle, or before any judge or magistrate of the same, after the making of this law, shall be commenced and effectually prosecuted within the time and limitation hereafter expressed, and not after. That is to say, the said actions, or complaints of trespass, the said actions or complaints of detention, debt, deceit, and cozenage, and of goods delivered or lost ; the said actions, or complaints of account and upon the case (except for slanderous words), and other such like personal actions, within two years next after the making of this law, or within three years next after the cause of such action, plaint, or suit, and at no time after. And the said actions of assault, battery, wounding, imprisonment, and for slanderous words, or any of them, within one year after the making of this law, or within two years next after the cause of such actions or complaints, in nature of any of the actions aforesaid, and at no time afterwards, any law, order, custom, or practice to the contrary notwithstanding.

Provided nevertheless, and it is further enacted, that if any person or persons, that is or shall be entitled to any such actions of trespass, detention of goods delivered or lost, of accounts, and upon the case, of debt, deceit, assault, battery, wounding, or imprisonment, or actions upon the case for slanderous words, or any other personal action, be, or shall be at the time of any such cause of action given, accrued, come, or fallen within the age of twenty-one years, under coverture, non compos mentis, imprisoned, or beyond the seas, that then such person or persons shall be at liberty to bring the same actions (as others not under such incapacities might before have done), so as they take the

benefit thereof, within such times after such their imperfections are removed, as are herein before for that purpose limited, and not otherwise. And if any person against whom lies any such cause of action or actions, shall at any time of such cause of suit accrued, be beyond sea, then the person entitled to such suit may bring an action after the return of such person, so as he brings the same within such time after the return, as is respectively before limited by this act.

And it is further ordained and enacted, by the authority aforesaid, that all claims and probate of claims hereafter to be entered and made in the spiritual court of this isle, against executors or administrators of decedents, for or on account of any of the causes of suit before mentioned, and more especially for debts, and other demands of what nature soever, without specialty, shall be entered, prosecuted, and made by claimers within the island, in one year, and by persons beyond sea, within three years from the probate of the will, or granting administration, and at no time after ; and then the cognizance of such claims so entered to belong to the temporal court, according to the statute 1665 ; but that no decree, judgment, order, or recovery shall at any time be given, had, or made by or upon any such claim, or claims in the spiritual court, nor afterwards in the temporal court, but within the time and limitation of four years next after the cause of such suit or claim, by or for island claimers, and within five years from the cause of suit or claim, by or for claimers beyond sea, and not otherwise ; and that all other suits, controversies, and matters of contention, of what nature soever, for or against executors, administrators, or others, which hereafter shall be sued, or brought in the spiritual Court, shall be commenced and effectually prosecuted within one year after the making of this law, or within two years next after the cause of suit, and at no time afterwards, any law, custom, or practice to the contrary notwithstanding.

Provided, nevertheless, that this shall not prejudice orphans in seeking restitution of their goods, secured under pledges, in the hands of parents, guardians, or supervisors, in manner already directed by law; nor executors, or administrators making real discoveries of the effects or credits of deceadents, to fulfil their inventories, such right being still reserved for them to be recovered as formerly accustomed, they making oath before they shall obtain process, that such effects, or credits, did not before consist with, or come to their knowledge; and that the delay of timely prosecution has not been occasioned by neglect. And to prevent litigious suits and other inconveniencies, it is further enacted and declared, that it shall not be hereafter lawful for the said courts, or magistrates, or any of them, to admit of any obligor or party defendant's oath as evidence, against any bill, bond, note, or other specialty in writing, to acquit himself from the payment thereof, otherwise than by a proper receipt and discharge for the same, any law or custom to the contrary notwithstanding.

Provided always, that this act shall not be construed or understood to intrench upon the rights or prerogatives of the lord of the isle, in any suit, plaint, action, or claim, to which he is or may be entitled, the same being reserved and excepted, any thing herein before contained to the contrary notwithstanding \*."

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*Action real.*—"If any person shall pretend title to any farm-house or ground within this isle, and do not exhibit his bill in writing for the same before the lord, his lieutenant, or captain, and other principal officers of

\* Act of Tynwald, 1738.



the said isle, whereby it may be entered of record within the space of twenty-one years next after he or his ancestors have been dispossessed thereof, then he or his successors claiming after him, to be utterly excluded and barred from making title thereto forever\*.

The statute of 1598 is confirmed and established by a statute passed in the year 1647.

In respect of the statute limiting all persons to sue for title of lands and houses within twenty-one years next after their title first descended or accrued, it is apprehended that great prejudice may arise to infants, persons under coverture beyond sea, imprisoned and the like, it is therefore ordained, that notwithstanding the limitation of time by the said statute, if any person or persons, at the time of the said right first descended, accrued, come, or fallen, be within the age of twenty-one years, under coverture, not of sound mind, imprisoned, or beyond seas, or have any other lawful impediment, that then such person or persons, and their heirs, shall and may, notwithstanding the said twenty-one years be expired, bring his plaint, make his title, sue his right and demand, as such person might have done, before the expiration of the said twenty-one years, so as nevertheless such person or persons, or their heirs, do, within the space of two years next after their full age, discoverture, coming of sound mind, enlargement out of prison, or being free of their lawful impediment, or coming into the isle, take the benefit of, and sue and pursue the same, and at no time after the said two years be determined and expired.—Ordinance of governor, council, deemsters, and keys, 1662.

All suits for title of houses, lands, tenements, mills, cottages, and intacks, being inheritance or quarter-land, shall always be by action at common law, and not otherwise. But if manifest frauds be made use of to procure legal titles, which cannot be relieved at common

law, but require to be redressed in equity, the plaintiff bringing his action at common law, may allege the fraud therein; and upon the defendant's appearing to the action, the plaintiff is then to give in a case in writing, containing the particulars of his allegation, with respect to the fraud; and upon entering into bond in ten pounds, to make good the same, the proceeding at law to be stayed, and the plaintiff be allowed to file his bill or action in chancery; and when the defendant joins issue, the chancellor shall direct the examination of the matter to six of the Twenty-four Keys, by way of commission, to inquire into the same, by way of oaths or otherwise, as the case may require; and then to make a report of the whole impartially to the court in writing, in order to a determination. But if, upon considering the report, and hearing the cause, the court should not have sufficient proof to find and decree for the fraud, then the matter shall be remitted to be proceeded in, and decided by the course of common law, and the plaintiff shall be liable to forfeit his bond to the defendant for his costs and damages, or such part thereof as the chancellor shall think reasonable to allow. And if either party shall appeal from the said decree of chancery, he shall be obliged to enter into bonds as usual; Provided that disputes and controversies concerning mortgages shall, according to the act of settlement, be determinable in the court of chancery; and that no sequestration shall be laid on the profits of any lands, tenements, and hereditaments whatsoever, by any court or magistrate within this isle, but in extraordinary cases; and then the same not to be done without the consent of the governor, officers, deernsters, and keys\*."

\* A. T. 1737.

*Administration.*

It is ordered, that the goods of deceadents, according to the inventory, shall be made good by the ordinary, or his spiritual officers, if he or they upon proving the will, or making of the decree where no will was made, do not take sufficient security for the same \*.

It is enacted, That the probate of wills and making decrees of deceadent's effects, shall be effected within three months after the death of the party, at furthest, under pain of fine and severe punishment on the person failing therein, after lawful summons given by the proper officers of the spiritual court: and that the spiritual officers take special care for the observance hereof †.

*Adultery.*

WHEREAS heretofore it hath been a law in the Isle of Man, that a wife going away from her husband for adultery, or any other cause, might give away the one-half of all such goods and chattels as her husband and she were seized of, to whom pleased herself, which is thought to be against the laws of God and good government: It is therefore ordered, That if any wife hereafter shall commit adultery, and be thereof lawfully convicted before the bishop, or his lawful deputy, the captain, and the rest of the lord's council there, she shall lose her benefit of the said law, and shall have no more of her husband's goods than shall be agreed upon by the bishop or his lawful deputy, the captain, and the rest of his lordship's council there, for her maintenance.

No appeal shall be made from the ecclesiastical

courts to the lieutenant or the captain, or his deputy, or the temporal judges, or the twenty-four keys, in case of adultery\*.

### *Ale-House.*

It is enacted, That no person shall retail ale, wine, or other liquors, without a licence from the governor, under the penalty of three pounds for every default; one-half to the lord of the island, and the other half to the informer; and none shall obtain such licence except a competent number of substantial ale-house keepers in every town and parish, the situation of whose houses, and other necessary conveniencies, are to be yearly reported to the governor by the minister and captain of every parish, the coroner of the sheading, and four of the great inquest in each parish, who are most fitting and best qualified for that purpose. And such returns to be made to the governor at the respective sheading courts, annually holden after Michaelmas, that such as shall be sufficient and able to perform the tenor of their licences may be licenced and allowed; who, upon obtaining of their licences, shall enter into a recognizance to perform the tenor thereof, as formerly accustomed. Upon every licence there shall be paid fourteenpence to the governor's secretary, sevenpence to the comptroller, and ninepence to the keys for the reparation of their house, and to find other necessaries at the times of their meetings †.

The number of licences for retailing beer, ale, wine, and other liquors in this island, is limited to three hundred, at five score to the hundred ‡.

It is ordained and enacted, That an additional sum of nine shillings and ninepence be paid for every ale-house

\* A. T. 1593.

† A. T. 1734.

‡ A. T. 1740.

licence into the hands of the clerk of the rolls as a fund, to be applied in making, repairing, and amending the highways, in such manner as shall be directed by the governor, with the council and keys, or a committee to be by them appointed.

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### *Appeal.*

For quietness, and avoiding of differences between the temporal and ecclesiastical courts, it is ordered, That no appeal shall be made from the ecclesiastical courts to the lieutenant or captain, or to his deputy, or to the judges, or twenty-four keys, or any of them, for any cause depending or determined in the ecclesiastical court, which does merely concern the government of the church, excommunications, suspension, adultery, fornication, profanation of God's name or the Sabbath, cursing, probate of wills, granting administration, granting tuition of children's goods, merely subtracting of tithes, or concerning defamations determinable or punishable by the ecclesiastical laws: but this to be no way prejudicial to the privileges formerly enjoyed by the soldiers, or the captain in garrison. Ordinance by the lord of the island, 1636.

It is enacted, That all persons having any appeal, or cause of appeal from any decree, order, sentence, judgment, or proceeding of any of the courts or magistrates of this island, or from the keys, to any superior judge of appeals, are obliged to prefer their appeal for acceptance, and enter into bonds thereon, in order to an effectual prosecution within six months next after the decree, sentence, order, or judgment is made, or given against them: otherwise they, and all persons claiming under them, to be excluded and barred from the benefit of any appeal for ever after\*.

\* A. T. 1736.

*Apprentice.*

No person shall take any apprentice to learn a science or trade, without such apprentice, with a sufficient surety, do first enter into bond to the lord's use, in the penal sum of ten pounds at least, to serve for the term of five years; and when the said term is up, such apprentice is forbidden to take an apprentice for one year afterwards; and that to be upon the approbation of three of the same faculty, of his sufficiency to teach an apprentice. Nor shall he be permitted to marry for one year after serving his time, without the special licence of the ordinary, or his substitutes, or spiritual officials so empowered, to be obtained upon a true certificate under the hand of the minister of the parish, and two sufficient neighbours where such tradesman dwelleth, of his condition, honesty, and ability, according to their knowledge and common fame. And all this upon severe punishment on the offender, and a fine to the lord besides \*.

*Arms.*

It is enacted, That it shall and may be lawful for all landholders and other house-keepers, being Protestants, to purchase themselves arms, and to keep a firelock for the protection of themselves and families, as well as the defence of the island upon all emergent occasions, provided they always keep them clean and in good order, at the sight of the captains of the parishes and towns, who, for that purpose, are to call them forth with their arms, at least four times in the year, and report their condition to the governor; and the said arms shall go and descend to their heirs and

assigns, in place of the ancient weapons of war called corbs, and be a full satisfaction for the same \*.

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*Arrest.*

No action of arrest shall be granted against a landed man or native within this isle, to imprison or hold him to bail, unless he has obtained the governor's pass, or that there is some other just cause to believe he designs to go off the island : and that any person prosecuted for a foreign debt by an action of arrest, shall be held to bail only for his personal appearance to such action, and for the forthcoming of what effects he hath within this island †.

No arrest for debt or contract without specialty shall be granted but upon the affidavit in writing of the complainant, or some proper person in that behalf, according to the best of his judgment and belief, and not otherwise. Which affidavit is to specify the cause of such debt or contract, and that the same is just and reasonable, according to the nature thereof ; which affidavit may be taken by the clerk of the rolls, or other person duly authorised by the court or magistrate for that purpose. And such affidavit shall be annexed to, and filed with the process of arrest ; for the taking and filing thereof sevenpence only is to be paid. And process of arrest for debts due by specialty may be granted without affidavit, upon sight of such specialty, and a recital thereof in such process. Provided, That if any person who shall be liable to any civil process for debt, contract, or otherwise, shall be about to leave the island without settling the same, it shall be lawful for the person likely to be aggrieved (taking with him a civil officer), to stop such person, or cause him to be

\* A. T. 1748.

+ A. T. 1736.

apprehended and detained for twenty-four hours, and no longer, until a regular process of arrest be obtained, or the matters adjusted.

All warrants to apprehend, and commitments in criminal cases, shall be issued upon the oath of the prosecutor or person aggrieved, setting forth the fact or cause of suspicion ; or upon the return or verdict of a jury duly authorised, and not otherwise.

And in all cases where the party imprisoned shall think himself injured by frivolous or vexatious arrests in civil matters, or from commitments in criminal cases, such party may sue for damages against such prosecutor by action at common law \*.

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### *Assets.*

No houses or lands, either quarter-land, mills, cottages, or intacks, purchased or acquired, shall be deemed to be personal effects or chattels, so as to be considered as assets in the hands of executors, or subject to be claimed by right of consanguinity, or next of kindred, in exclusion of the heir at law †.

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### *Attorney.*

No person shall plead in any court, except in his own cause, nor practise as an attorney or advocate, until he be first commissioned by the governor or lieutenant-governor, and hath taken the government oaths, and also the following oath.—“ I A. B. do swear, that I will truly and honestly demean myself in the prac-

\* A. T. 1777.

† A. T. 1777.



tice and knowledge of an attorney to the best of my ability."

No attorney shall become bail in any suit whatever, or carry on any suit by way of champerty; that is, by making any bargain beforehand, or during the plea, to have part of the subject in litigation, or any reward thereof, either by his own procurement or by others; nor to carry on any suit at his own charges upon the event of the cause. And if any be convicted of so offending, he shall be fined and imprisoned at the discretion of the court, for any time not exceeding three months, and be rendered incapable of practising the law thereafter. And if any champertor be discovered upon the trial of any cause, the judge before whom the same is depending, shall remit him over to be tried; and all trials for champerty shall be by a jury, as in other criminal cases; and the prosecution may be carried on either at the suit of the king, or the party grieved. Provided that this act shall not be understood to prohibit parents, near relations, or friends from giving aid or assistance to any party in suit; and that a grant or bargain to have a part of the thing in suit when recovered, to satisfy a just debt or other matter justly owing, shall not be champerty. And any poor person, destitute of relations and friends, who shall have any cause of suit, shall upon application to the court before which the suit depends, or is to be commenced, and making oath that he is not worth five pounds, be allowed to employ any attorney to carry on such suit, who shall be allowed to lay out his own money in the prosecution thereof, to be paid upon the event of the cause. And the court, at the request of such poor person, is authorised to allow him to give the attorney security for his trouble and expences upon the subject in dispute, by deed of sale, mortgage, or assignment, to such extent as the said court shall think reasonable, and such deed shall effectually operate upon the subject when recovered \*.

*Baron and Feme.*

If a man wed a wife that is in a farm, her debts to be paid by her husband \*.

If any man forfeit his goods to the lord by felony, his wife shall not forfeit her part of the goods; but if the woman forfeit in felony, her husband may forsake her and her deeds; and if he does not, but conceals her deeds, he to stand as deep in the law as the woman †.

When husband or wife die, the debts temporal to be paid out of the whole goods, and the debts spiritual out of the dead's part ‡.

If any man die, the wife to have one-half of all his goods, moveable and immoveable, and the debts to be paid out of the whole; and also the wife to have one-half of the tenement wherein she dwelleth during her widowhood §.

Upon the death of a husband before his wife, one-half of the whole goods and chattels, purchased lands and premises, shall become the property of his widow, subject to one-half of the debts; but in case the wife dies before her husband, and without issue, her right in such goods and chattels, lands and premises, shall cease and determine, and the same remain wholly to the husband: Provided that nothing herein shall prevent a wife from making a will, even in the lifetime of her husband, in favour of the lawful issue of her body, or to her husband, but to no other person: Provided also, That this act shall not affect any articles, settlement, contract, agreement, or other deed made, or to be made and executed, by or between any party or parties married, either before or after their intermarriage, for the settlement of the purchased lands and pre-

\* Ordinance 1429.

† Ord. of Council 1504.

‡ Book of Spiritual Laws.

§ Book of Customary Law, 1577.

mises, or personal estate of such parties, or either of them, married or to be married, but such deeds shall have their full effect, according to the true intent and meaning thereof.

Provided also, That nothing in this act shall exclude or restrain the purchaser or purchasers of such purchased lands, or acquired premises, from granting or devising the same as he, she, or they shall, by deed or will, think proper : And provided also, That nothing herein contained shall preclude or prevent the proprietors of lands, of whatsoever nature or tenure, from selling or alienating such lands and premises by deed duly executed, for a full and valuable consideration, as heretofore accustomed ; or lessen the rights of mortgagees in any houses lands, or tenements, or of any persons possessed of leasehold estates for a term or term of years, or prejudice just creditors ; but that such houses, lands, and tenements shall be held and enjoyed by them, according to their respective claims, rights, and interests therein. And it is further enacted, That all and every person and persons, being seized of any lands of inheritance, shall be, and are hereby empowered to grant a lease of the whole, or any part of such estate of inheritance, for any term not exceeding twenty-one years in possession, and that the highest and most improved rent be had for the same \*.

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### *Bastard.*

If any die intestate, having no children legitimately begotten, but only base children, then the ordinary shall make and ordain, both of father and mother's side, to be lawful executors ; and the base begotten to be rewarded of charity at the discretion of the ordinary.

A bastard can have no goods except they be given him by will, or at the discretion of the ordinary upon charity, otherwise they can have none by law.

If any man get a maid or young woman with child before marriage, and within a year or two doth marry her, if she was never slandered or defamed with any other man before, that child begotten before marriage shall have his father's corb and farm according to the law of the land.

A question being put by the governor to the deemsters and keys upon the meaning of the last written customary law, they answer in the following words :—

If a man get a maid with child, and then within a year or two after doth marry her, we judge them to be legitimate by our law \*.

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### *Battery.*

For the prevention of the frequent complaints touching batteries, and passionate words provoking the same, it is ordered, That as often as such complaints shall be made, and the party accused convicted, by lawful proof, by apparent wounds, bloodshed, or confession, such persons for their violent strokes, battery, inhuman and evil usage, shall, besides punishment and charges of cure, be fined in ten shillings to the lord's use, for every time offending in that nature; and such persons as shall be abused, and proof had against them as before mentioned, for upbraiding and provoking language, and inveterate speeches causing, or that might cause such battery, wounding, or violent strokes, or usage, to be fined thirteen shillings and fourpence to the lord's use, besides imprisonment †.

\* 1594.

† Ordinance of Government, Council, and Keys, 1661.

*Beasts.*

No person shall take the goods or cattle of another to ride, draw work, or otherwise employ the same without consent of the owner (though he find them trespassing upon his own ground), upon pain of forfeiting to the lord for every such offence, being convicted thereof by information, action, plaint, or otherwise, by the oaths of two sufficient witnesses, the sum of three shillings and fourpence, and to make amends to the party grieved \*.

If any person puts forth horses, mares, cattle, calves, sheep, goats, swine, or geese into the highways, without the consent of the farmer or tenant whose lands adjoin to such highways, and the goods be found without a herd, or one looking to them, it shall be lawful for such tenant or farmer to impound the same in the next pinfold †.

Every person holding lands within this isle shall be obliged either by herding, fencing, or other means, to keep their horses, cattle, sheep, goats, swine, and geese, and all other their goods whatsoever, upon their own lands, without suffering them to trespass on their neighbours ‡.

If any pinfold shall be broken, or the goods therein impounded by any way or means be taken out of the same, the owner of the goods so impounded shall be taken and reputed to be the person who committed the offence, and shall be liable both to the pinfold fees and trespass money, by order of the governor or deemster §.

If any cattle, horses, asses, mules, swine, sheep, goats, or geese be found trespassing on enclosed grounds where the fences are kept in sufficient repair, and impounded for the same from the twenty-fifth day of

\* Ord. 1583.

† A. T. 1665.

‡ A. T. 1705.

§ Ibidem.

March to the tenth day of October, the owner thereof shall, before they are released, pay the keeper of the pinfold as follows : viz. two shillings and twopence for every head of cattle, horses, asses, mules, and swine : eightpence for every head of sheep and goats, and fourpence for every goose ; and for such cattle, &c. impounded from the 10th day of October to the 25th day of March, as follows, viz. for every head of cattle, horses, asses, mules, and swine, one shilling and twopence : for every head of sheep and goats sixpence ; and for every goose threepence. And after the last mentioned rates, whenever such cattle, &c. are impounded from off the highway, adjoining quarter-lands, baron lands, or enclosed intacks, in any part of the year ; which several sums are to be paid to the keeper of the pinfold, who, after deducting the accustomed pinfold fines and fees, is to pay the remainder to the person bringing such cattle, &c. to the pinfold. And in case any person shall obstruct, or prevent such cattle, &c. found trespassing, from being impounded, such person shall, upon conviction before a deenaster, be adjudged to pay the full trespass-money and dues aforesaid, besides the sum of ten shillings to be laid out on the parish pinfold, and such costs as shall be awarded \*.

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### *Beggars.*

THAT no man bring beggars or vagabonds into the country on pain of forfeiting his boat †.

It is ordained, That the poor of this isle shall not beg out of their own parish ; and if any offend herein, the constable, coroner, or lockman of such other parish is, for the first time, to warn such beggars back to

\* A. T. 1776.

† Ord. 1422.

their own parish, which if they neglect or refuse, then are they to be compelled, and whipped to their own parish. And if they continue disobedient they are to be brought by any of the said officers to the next goal, there to continue until they declare themselves conformable to this order; and that none be relieved as the poor of any parish, but such as are blind, lame, maimed, or decrepid in respect of age or other infirmity. And all young persons shall either labour for their bread, or be made to serve by a jury of servants, or otherwise to be committed until they submit thereto. And if the constable, coroner, or lockman neglects his duty aforesaid, he shall, upon complaint and proof made, be fined at the discretion of the governor and officers\*.

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### *Boundary.*

It is ordered that all the inhabitants, tenants, and farmers holding lands in this isle, shall in every year as well against winter time, as summer and harvest season, make sufficient and able fences, ditches, trenches, or hedges of the height and breadth herein mentioned, [note, the dimensions are altered by an act made in 1691,] or else set out a keeper or herd in respect thereof; and if any neglect the same, the great inquest shall make presentment thereof at every sheading court, to the end that such persons may be fined according to the nature of the contempt, and quality of the person, and the deemster is to give the same in particular charge to the great inquest every half year †.

If any person shall be desirous to make a lawful boundary fence, and any of his neighbours whose lands adjoin to his, and are by law obliged to make up the said fence with him, shall refuse to join therein, then

\* A. T. 1665.

† Ibid.

such person shall obtain a token from the governor or deemster to require his neighbours to join in making up and repairing such fence, according to the height and breadth herein after set down, within such a convenient time as the governor or deemster shall appoint: and in case his neighbours do neglect to do the same within such time, then such person to employ labourers to make up his neighbours part of the said fence, and to keep a just account of the charges thereof, and to make oath to the truth of the said account, (if occasion require), before the governor or deemster; and thereupon execution is immediately to be granted him by the governor or deemster, for levying the said charges, by taking the pawn of such neighbours, and selling the same forthwith to satisfy the charges aforesaid; and that all boundary fences shall be made five feet and a half high, with a trench of one foot and a half deep, and three feet broad, or else, six feet high in the perpendicular, where a trench cannot be made; and that all trenches in such part of the island where they are used instead of a fence, shall be six feet broad in the top, and three feet deep\*.

Where there shall happen to be an insufficient mere fence or boundary, any persons interested in such boundary being desirous to have a sufficient stone wall erected in lieu thereof, shall apply to their neighbour to join with them in making such stone wall boundary: and in case such neighbour shall not agree to bear an equal share of the expence, or otherwise amicably agree about the same, the persons wanting such stone wall to be erected, may apply to a deemster for his authority to: impanel and swear a jury of four of the most judicious men within the sheading, to view the insufficient boundary, and to estimate and report according to the best of their judgment, not only what sum will be sufficient to put the same into statutable repair, but also what sum will be sufficient to keep the same in such repair for ten



years next following ; and thereupon it shall be lawful for such deemster on such report, to grant judgment and execution against such disagreeing party, for one moiety of the sums so reported : the amount of which moiety shall be paid in the whole, or in such parts and proportions, and at such times as to the deemster shall appear just and reasonable, according to the circumstances of the case ; and the party so applying, upon receiving the same, or such part or portion thereof as shall be adjudged him as aforesaid, shall with all convenient speed, erect a stone wall, at the least two feet four inches broad in the foundation, five feet in the perpendicular height, and sixteen inches broad at the top at such height, together with proper coping, or projecting stones to complete the same.

And in case the said old boundary be crooked, and that the parties shall not agree upon a direct line in order to make the said boundary more complete and less expensive, then either of the said parties may apply to a deemster, who shall order the commissioners of drains, at the expence of the parties, to view and survey the said boundary and premises, and upon duly considering the quantity and quality of the ground, shall settle the difference between the parties, and ascertain the new boundary. And in like manner the said commissioners are authorized and directed to view, shorten, ascertain, and fix all other boundaries whatsoever, which shall be referred to and come before them in manner aforesaid. And that the said stone wall, and other boundaries fixed by the said commissioners, and all other boundaries which have been or may be erected by consent of parties, shall be deemed and adjudged repaired, and amended as the true and lawful boundary for ever \*.

*Breach of the Peace.*

UPON flagrant breaches of the peace, open riots, and disturbances, or other notorious misdemeanors, it shall be lawful for the governor, or any of the officers or deemsters, or if occasion shall require, for the constables of garrisons, or commanders of forts in their respective towns, to commit the offender or offenders, who shall be held to bail by order from the governor, to answer and stand trial at such time as shall be appointed:—but such trial not to be delayed, but to be brought on with all possible speed. Provided that in case of murder being committed, or any mortal, violent, or desperate stroke, or wound given, whereby any person's life is in immediate danger, the offender is not to be admitted to bail, but to remain in gaol to undergo his trial, according to the course of the law; and that this act shall not restrain the governor or deemster from proceeding upon the law, touching battery and provocation, without juries, as formerly\*.

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*Buggery.*

THAT any person committing or suspected of committing such crime with any manner of beast, the case shall first have and receive examination in the spiritual court, according to matters of rape, sorcery, and the like; and afterwards in the temporal court, by indictment and arraignment, as in the case of felony, or other notorious crimes, if the spiritual court so return the same. And if the malefactor be found guilty, then sentence of death to pass against him, and to forfeit life and limb at the pleasure of the lord, and likewise all

\* A. T. 1736.

his estates, lands, goods, and chattels, as in the case of felony, or other notorious crimes \*.

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### *Kalendar.*

THE style according to the new kalendar established and to be observed in this island.

All fairs depending upon the moveable feasts to be holden according to the new kalendar; but such fairs as have been fixed to certain nominal days of the month, or depend upon the beginning of any certain day of any month, and the Tynwald court usually held with the fair on the feast of St John the Baptist, at which the several coroners were and hereafter are intended by this act to be chosen and sworn; and the times of hiring, giving warning, and discharging of servants shall be held and done upon the same natural days on which they would have happened in case this act had not been made.

And whereas, according to divers usages within this isle, the entering upon the possession of lands and houses, either by the recoveries of titles, or by setting and letting, or opening of grounds for pasture and other purposes, are often, on particular nominal days and times in the year, and, on the other hand, the owners of such lands and houses on determination of such settings, and of the letting of pastures have a right to enter upon, shut up, and inclose the same for their own use; and there is, in many other instances, a temporary and distinct property vested in different persons, in and to such lands and houses, according to certain nominal days and times in the year. And whereas, the anticipating the said days and times by eleven days, according to the new kalendar, might be

\* A. T. 1665.

attended with inconvenience, it is therefore provided, that the times and days aforesaid shall be observed according to the old style, that is to say, eleven days later than the same would have happened according to the new style.

And that this act shall not accelerate or alter the accustomed times of paying the lord's chief rents, fines, or other dues whatsoever\*.

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*Carriages.*

WHEREAS, by the ancient laws of this island, the tenants and inhabitants thereof are and have been accustomed to do their duties and service to the lord and his ancestors at the building or repairing of his forts or houses in the island, by the service of themselves in person, or by the service of some sufficient and able labourer in his or their behalf, fit for the work in hand: contrary to which many and divers of the farmers and tenants of the better sort usually send boys and children to such work, by means whereof the burden lies upon the poor people, who are constrained to serve in their own persons, and such works are neglected or not well performed, notwithstanding that they are for the honour and safety of the country: It is now therefore ordered and enacted, that every farmer, tenant, and inhabitant of this island so neglecting to do such duty or duties in his or their own person or persons, or in default thereof, shall not fail to send some able and sufficient labourer in his stead: he or they so offending, shall, for every time, forfeit sixpence to the lord, upon the presentment of the officer or officers that shall be put in charge with such works†.

\* A. T. 1753.

† A. T. 1645.

### *Castle-Maze.*

THAT a castle-maze be paid out of five maze of herrings in a boat taken; and half a maze out of two maze and a half gotten in a boat, as oft as they go to sea and gotten so :—and that is our law, the custom and usage. And the lord to pay sixpence for a maze thereof : Provided that the bringers of the first maze shall for the same have three shillings and fourpence.

At every herring-fishing on the coast of Man, all manner of persons whethersoever they be, barons, officers, or soldiers, to pay the castle-maze and customs, as hath been heretofore used.

Note.—The castle-maze hath, of late years, been commuted for a yearly payment in money, which bears the name of herring custom, and hath been appropriated by an act of the British parliament to the repairs of the harbours of the island. The laws relating to castle-maze are inserted for the purpose of throwing a light upon the nature and origin of this custom.

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### *Children.*

IN case a man dieth intestate, the bishop or his vicars-general shall order his children legitimately begotten to be joint executors \*.

Also, if any make their testament, and leave not sixpence legacy to their children unmarried, legitimately begotten, or the value thereof, then the ordinary may make him or her executor with the rest †.

A man having married two wives, and having children by the first wife, being under age, the father is bound to bring them up until fourteen years of age,

\* Sp. Customs.

† Temp. Customs, 1577.

without taking any part of the goods by the mother; and then he may turn them away giving them the said goods \*.

If either father or mother depart this life having children, if the said children be of years of discretion, that is fourteen years, they may divide goods either with father or mother, and repair to whom they will.

If there be but one child between man and wife, and the father die, the father's kindred shall have the custody of the child and his goods until fourteen years of age, except the father order otherwise by his will; then that to be observed. And if there be two children, then the mother to have one that is the eldest. And if the mother die before the child comes to years of discretion, she may leave the custody of the said child to whom she will, and the next of kin of the father's side and mother's side supervisors †.

If any man having but one child dieth, the next of kin of the father's side shall have the custody of the child and his goods till fourteen years of age, and then he may go to whom he pleaseth. And if the child die under fourteen years of age, then the said goods to come to the next of kin upon the father's side legitimately begotten. And if the goods come by the mother's side, then the next of kin by the mother's side to have it. If there be two children, then the father's side to have the youngest, and the other kindred to have the eldest and his goods ‡.

Children entering upon their goods and livings at fourteen years of age, shall not be at liberty to make sale or dispose of the same (unless they be enforced through necessity,) before they attain to the age of twenty one years, and that made known to the captain and the rest of the officers §.

\* Ord. 1525.

† Temp. Customs, 1577.

‡ Sp. Customs.

§ A. T. 1629.

Whereas it is complained that children and poor persons not of ability to make satisfaction, cut grass and corn in the lands of other persons, dig, pull, and carry away ling, and turf in others rented premises, dig, and take away timber out of the curraghs, and put horses or cattle into neighbours corn and grass in the night time, and take them out before morning : It is therefore ordered, that as often as children, or poor persons offend in that kind, and be thereof lawfully convicted by sufficient or probable testimony, they shall be whipped, or otherwise punished at the discretion of the governor and officers, according to their condition and age \*.

No person shall entice, inveigle, countenance, and entertain any servants at unseasonable times ; for that it hath been accustomed to be a great motive to convey and purloin their master's goods, and so bring such servants into a course of pilfering, and wasting their wages : It is therefore ordered that whosoever shall entertain servants, or children, in that kind, shall (if of ability), for the first offence be fined ; for the second be fined and punished, besides making restitution to the party grieved ; and for the third offence be proceeded against as the receivers and abettors of felony, according to the statute of pilferies, if the goods purloined and received amount to the value of sixpence halfpenny, and that by indictment and arraignment, and the servant to be punished at discretion ; and to give security for his honest dealing in future †.

All children and servants unconfirmed, of such a division of the parish as the minister shall appoint, (which shall be at least a fourth part thereof,) shall constantly come to evening prayers, to be instructed in the Christian religion ; at which time, every rector, vicar, and curate shall employ at least half an hour in their instruction in the church catechism. And all parents and masters, who shall be observed by the ignorance of their

\* A. T. 1665.

† A. T. 1667.

servants and children to be grossly wanting in their duty, in not instructing them, shall be severely punished. And the minister and wardens shall keep a catalogue of such as are not confirmed, and present those that are absent without urgent cause, who shall be fined two pence the first Sunday they absent, four pence the second, and six pence the third: in which case the parents and masters are answerable for the children and servants, unless it appears to be the servants own fault.

And all persons shall send their children as soon as they are capable of receiving instruction, to some petty school, to continue there until they can read English distinctly, unless the parents give a just cause to excuse themselves, approved of by the ordinary in open court. And parents neglecting so to do, shall, upon presentment by the minister and church wardens, or chapter quest, be fined one shilling per quarter to the use of the schoolmaster; who may refuse to teach the children that do not come constantly to school, unless for such cause as shall be approved of by the minister of the parish; and then the parents shall be fined as if they did altogether refuse to send the said children to school. And the schoolmasters shall have over and above their salaries already allowed, sixpence quarterly from the parents of every child that shall be taught to read English, and ninepence quarterly from such as are taught to write: which sums being refused, the sumner shall be ordered to require punctual payment within fourteen days: and upon default hereof they are to be committed till they submit to law. But when the parents or relations are poor, and not able to pay as aforesaid, and this certified by the minister and churchwardens to the ordinary, such children to be taught gratis. And whereas some of the poorer sort may have just cause to keep their children at home for several weeks in the summer and harvest, such shall not be liable to the penalties aforesaid, provided they do, and they are hereby required to send such children, during



such their absence from school, every third Sunday to the parish church, at least an hour before evening service, there to be taught by the schoolmaster, to prevent losing their learning. And if any schoolmaster neglect his duty, and complaint be made and proved, he shall be discharged, and another placed in his stead at the discretion of the ordinary. And every rector, vicar, or curate, shall the first week of every quarter visit the petty school, and take an account of the improvement of every child, to be produced as often as the ordinary shall call for it.

The minister, church wardens, and chapter quest shall, the last Sunday in every month, after evening prayers, set down the names of all such as without just cause absent from church; and of parents and masters who neglect to send their children and servants to be catechised, and of parents and guardians who send not their children to school, and all other matters, they are by their oaths bound to present: the articles of visitation are to be read to them at every such meeting; and this to be done under pain of ecclesiastical censures\*.

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### *Church.*

THE parishioners are bound to keep up and maintain the body of the church within and without, with all ornaments, books, and other necessities; and the parson is bound to keep in good order the chancel.

If any parson, vicar of third, or pension, do depart, and no other be installed within six months, from Easter next ensuing his departure, the bishop or ordinary shall take it in his lapse, if it be not in the gift of the lord of the island †.

\* A. T. 1704.

† Sp. Cust. Laws.

*Church Censures.*

If any person shall incur the censures of the church, and having done penance, shall afterwards incur the same censures, he shall not be admitted to do penance again (as has been formerly accustomed,) until the church be fully satisfied of his sincere repentance, during which time he shall not presume to come within the church, but be obliged to stand in a decent manner at the church door every Sunday and holiday, the whole time of morning and evening service, until by his penitent behaviour, and other instances of sober living, he deserves and procures a certificate from the minister, church wardens, and some of the soberest men in the parish, to the satisfaction of the ordinary, which if he does not so deserve and procure within three months, the church shall proceed to excommunication. And during these proceedings the governor shall be applied to, not to permit him to leave the island : and this being a matter of very great importance, the minister and church wardens shall see it performed under penalty of the severest ecclesiastical censures. And whenever any daring offender shall be and continue so obstinate as to incur excommunication, the pastor shall affectionately exhort his parishioners not to converse with him on peril of being partaker with him in his sin and punishment\*.

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*Clergy.*

If the executors or assigns of the bishop, archdeacon, or any parson, vicar, curate, or clerk, do sow any of the glebe land before Easter day, they shall have all

such corn as is sown, with the profit thereof, and shall be at liberty to reap the said corn and carry it away.

And if either bishop, archdeacon, farmer, parson, or vicar having leases, do depart this life after twelve o'clock on Easter day, their executors or assigns, have ever been accustomed to have and enjoy all the profits of that year until Easter day next ensuing, and shall find and see the cure served and discharged\*.

Articles delivered 24th June 1594, at the Tynwald then holden, to the vicars-general, by the captain of this isle; which articles are to be inquired of at next consistory court.

*First.* That they impanel in the several sheadings, jurors to inquire into all offences committed against the spiritual laws; and the same jurors to be chosen of such as be of best ability to discharge the same. That they inquire and present all adulterers, fornicators, blasphemers, drunkards, and such like.

That they inquire and present all such as carry bells or banners before the dead; or pray upon the graves of the dead: and all such as keep any market upon the Sabbath day, or otherwise profane the same. Also any person or persons that refuse to come to the church to hear divine service, or to receive the sacrament of the Lord's supper†.

Every rector, vicar, and curate, shall first privately, and then publicly admonish such persons as he shall observe to be disorderly livers, that such as will not by this means be reclaimed, may be hindered from coming to the lord's table, and being presented, may be excommunicated; and if any minister knowingly admit such persons to the holy sacrament, whose lives are blemished with the vices of drunkenness, tipling, swearing, profaning the lord's day, quarrelling, fornication, or any other crime by which the Christian religion is dishonoured, before such persons have publicly acknow-

\* Sp. cus. Laws,

† 1594.

ledged their faults, and solemnly promised amendment, the minister so offending shall be liable to severe ecclesiastical censure\*.

Any rector or vicar who shall hereafter erect or build, or make any addition to, or repair any dwelling house or out house, upon any church glebe; to be fit, convenient, and durable for himself and successors, such rector, or vicar, or his executors, or administrators, shall be entitled to have and receive from his next immediate successor, or his executors or administrators, two third parts of whatever sums shall be really and truly expended by him on such buildings and improvements (necessary yearly reparations excepted,) provided he give a just and fair account of the money so disbursed by him, upon oath, to a jury of four sufficient men, to be appointed by process from the bishop, or archdeacon, and sworn on the premises for that purpose: and their return upon the same, with the bill of disbursements so given upon oath, to be registered for the satisfaction of all persons concerned: and such successor, or his executor, so paying the two thirds of such disbursements, shall be entitled to receive a moiety thereof, viz. a third part of the whole disbursements from his next successor or his executors, or administrators, who shall also be obliged to pay the same within one year, to be accounted from Easter, after the death or removal of such predecessor. And the said sums shall be recoverable in the ecclesiastical courts, and a moiety of the rents and profits of the benefice to be laid under sequestration so as to be responsible for the same. And to prevent dilapidations, if any person shall afterwards suffer such buildings to go to decay for want of necessary repairs, he shall be accountable for the same to his successors, and liable to make satisfaction at the estimation of four sworn men, to be appointed in manner aforesaid, and

\* A. T. 1704.

the same to be laid out in the repairs of the said buildings.

Every rector, vicar, and curate, or their executors or administrators, shall be accountable for such books as are, or shall be given to the several parishes, or the full value of the same. And every rector, vicar, or curate, shall immediately after his induction or licence, make a new catalogue of all the books belonging to their respective churches, and shall deliver the same to the episcopal register, to the end that they may be accounted for as aforesaid \*.

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### *Commons.*

No person shall hold any of the lord's wastes or commons of this land unrented, but that whosoever holdeth the same and it unrented, he shall pay the value thereof.

It is ordered that no person go to the mountains or commons of this isle, after the hour of five o'clock in the afternoon, or before day in the morning, for the carrying of any turf or ling, for that complaint is made that some do carry away their neighbour's turf and ling at such unseasonable times. Wherein if any offend in future, they shall be severely fined and punished as by the court shall be thought fit.

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### *Confirmation.*

WHEN any rector, vicar, or curate, shall have any number of persons under twenty years of age in his parish fit to be confirmed, he shall give the bishop notice

thereof, and a list of their names, and shall suffer none to offer themselves to be confirmed, but such as he has before instructed to answer in the necessary part of the Christian knowledge.

And no person shall be admitted to the sacrament till he has first been confirmed by the bishop, or in case of his lordship's indisposition, to bring a certificate from the archdeacon or vicar-general, that he is qualified to be confirmed \*.

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### *Convocation.*

A convocation of the bishop and clergy of this diocese, shall be held yearly, at the bishop's chapel, on Thursday in Whitsun-week, if his lordship be in the island, or as soon as convenient after his return †.

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### *Corbs.*

THERE ought to be corbs pertaining to a man, as if his father have a pan, the son to have it, or else his best jack and sallet †. bow, and arrows, sword and buckler, his best board and best stool, his coultter and rackentree, his best cup, if it be wood and bound with silver, and gilt, his best chest.

For a woman, the best wheel and cards, rackentree, a sack, or else a Manks spade, the best bead of jet or amber, the best broach, the best cross, the best pot or pan.

In case of forfeiture of goods for felony, the corbs

\* A. T. 1701.

† Ibid.

‡ These are commuted by statute 1748, for the modern weapons of war.—See Arms.

which should pertain to the heir, the coroner is to have.

In case any do bequeath a corb or heir loom for a legacy, the same shall not be given, but the value thereof at discretion \*.

No cotterels or artificers shall be liable to pay corbs; but they shall be all bequeathable as other goods †.

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### *Coroner.*

IN points of treason, felony, or for surety of the peace, with many other things that belong to his office, he ought to arrest, and do those by virtue of his office, without warrant †.

At the next court after midsummer, the coroners to be appointed, and their names entered in the rolls of the court, with the sum that they take to serve §.

And forasmuch as coroners, against the law, stand in office two or three years together, which puts them to great value, to the destruction of the commonality, it is ordained that the coroners stand in office but one year, and that they take no inquest but twice in the year, by the commandment of the lieutenant, in open court, by inquest sworn before the deemster, and there to be recorded, and that they arrest no man without a warrant, save for treason, felony, or breach of the peace.

The coroner ought to have no customs of any man, but of him that beareth rent to the lord, and if it be a penny rent, he shall pay the coroner his duty, (the moar to be free of all manner of customs.) Fourpence shall be paid yearly out of every quarterland to the coroner, and whoever holds no quarterland, but only cottages and intacks, shall pay a penny if he hold but three

\* Ord. and Sp. Customs.

† Ord.

‡ A. T. 1629.

§ A. T. 1430.

shillings and fourpence rent, and above three shillings and fourpence rent, twopence and no more.

No coroner shall fight or take quarrel in hand, nor be advocate in any place during his office, but in the lord's causes \*.

It is ordered that the ancient law for continuing coroners in office but one year, be revived †.

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*Costs.*

WITNESSES shall have costs allowed them, (save in the lord's causes) in manner following :—Every person of the degree of a gentleman or gentlewoman, that shall be charged as a witness before any court, magistrate, or minister of justice, shall, upon his or her appearance, be allowed sixpence for every parish through which he or she shall be obliged to travel, so as that the same do not exceed two shillings and sixpence in the whole. Every person of the degree of a tradesman, shall, upon appearance as aforesaid, be allowed for loss of time eightpence, besides twopence for every parish he shall be obliged to go through, so as that the whole does not exceed one shilling and sixpence; and every woman in the same degree to be allowed twopence a parish as aforesaid. Every labouring man shall be allowed fourpence for loss of time, and a penny a parish; and every woman in the same degree twopence a parish. Degrees or denominations of the witnesses to be regulated at the discretion of the court before whom the cause depends, and the charges to be paid by the person at whose suit they are charged, by immediate execution from the said court by way of pawn, according to the due course of law, or by order of commitment, where the nature of the process by the

\* A. T. 1442.

† A. T. 1629.



rules of the court doth so require it. And whenever a defendant shall be cast in a cause, it shall be lawful for the court to award execution to the plaintiff against the defender for the witnesses charges aforesaid, as well as for the fees of tokens and presentments, along with the subject-matter in litigation, or otherwise, as the case may require. Or if the defendant shall incur a presentment for not appearing, it shall subject him to the plaintiff for the witnesses charges thereby occasioned. And if any default shall fall out by the non-appearance of a juror or witness, whereby the cause cannot that day proceed to a determination, then such juror or witness, unless some lawful cause be shewn to stop a presentment against him, shall be obliged by the like immediate execution, to pay the parties jury, inquest, and other witnesses, all their charges occasioned by such contempt, to be regulated as in the case of witnesses, at the discretion of the magistrate, in manner aforesaid. And if a plaintiff shall charge a defendant, juror, or witness, before any court, and not appear to prosecute, it shall be lawful for such court, upon the production of a certificate of the charge, (which the officer concerned shall give any person on paying the fee of twopence,) to grant immediate execution to such defendant, juror, or witness, to levy their costs of the plaintiff in the same proportion and degrees aforesaid, together with the said fee of twopence\*.

It shall be lawful for the governor, upon any trial where he shall judicially preside, and for all other courts, as well spiritual as temporal, upon the full hearing of any cause, to award such costs, charges, damages, and expences, to any injured party, whether plaintiff or defendant, against such other party as shall appear upon such hearing, to have brought a vexatious suit, or litigiously defended the same, as such court shall think proper; and to grant immediate execution to any

party, juror, witness, or other person injured, to be relieved in as full and ample a manner as any other decree, order, judgment, or execution. Provided that any person conceiving himself aggrieved by any of the inferior courts, in awarding extravagant damages and costs, may, upon application to the governor, have the same further heard, and considered of in chancery, where it may be mitigated and rectified, or enforced as to the governor shall seem reasonable: which is to be final in the premises, without further relief by appeal or otherwise \*.

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### *Council.*

WHOSOEVER is sworn, and after telleth the lord's council, or his own, he forfeiteth three pounds to the lord †.

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### *Courts.*

THE lord, or his lieutenant, may hold a court where-soever pleaseth them, and do execution as oft and where pleaseth him, within the land of Man, except in passion week, at which time, execution of life and limb ought not to be done. But as for courts of challenge, all times in the year, and execution to be done.

No court, judge, or magistrate, shall impose any fine or punishment upon any person on account of any criminal cause, until he be first convicted by the verdict or presentment of four, six, or more men, as the case shall require, upon some statute-law in force; nor shall imprison any person arbitrarily, before a proper

\* A. T. 1758,

† Ord. 1422,

complaint is made and lodged, and an affidavit made to the truth thereof.

Courts of justice, or magistrates doing the duty of their offices, shall have and continue the power of committing and fining any person for contemptuous behaviour, insulting or abusing them, or any of them, in the execution of their duty, according to the nature of the offence \*.

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### *Tynwald Court.*

No Tynwald shall be holden on the Lord's day; but as often as the feast of St John the Baptist shall fall upon the Sabbath, the Tynwald and the fair to be the day following.

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### *Court of Common Law, or Sheading Court.*

THE coroner of Glanfaba is to open the court of common law with this proclamation: "I do fence this court that no manner of person do quarrel nor brawl; nor molest the audience, and that they do answer when they are called, by licence of the king and this court. I draw witness to the whole audience that the court is fenced."

Then to call in four honest men of every parish to serve upon the great inquest, to present all trespasses that shall be done within the half year, as follows: and their charge is to be given to them, viz. To present any who have abjured the land, and be received again into the same without the lord's especial pardon and licence.

To present all petty officers; that is to say, the coroner, lockman, moar, and his runners, the water bailiff and his deputy, and the forest keeper and his deputy, if they do not the duty of their offices according to law; and also all petty craftsmen, viz. shoemakers, cobblers, tailors, websters, women-weavers, and smiths, who do not execute their occupations justly, or do otherwise than the old laws of the land permit.

Also, all persons who go to the hough where hawks and herons do breed, and take away either old or young hawks or herons, or their eggs out of the nest; and all such as go by day or by night, with his bow and arrow to the lord's forest, or with his hounds or greyhounds, to kill the lord's game.

Also all persons, who shall set fire to any ling, turf, gorse, &c. within the lord's forest.

Also all persons who leave the fell ditch or lidgates open to the low lands, also such as take up the lord's wrecks or floats, further than the low water mark, till above full sea, without the coroner or lockman, with two witnesses, with them

Also all persons that receive a common thief.

And all persons that keep stoned horses not worth six shillings and eightpence, or scabbed horses or mares.

Also all persons who neglect to keep their boundary fences in lawful repair; and parishioners neglecting to keep the pinfold in repair.

If any party to a suit in the court of common law, lives in Great Britain or Ireland, or wants proof from thence to be taken under a commission from the said court, he shall have time allowed for the same, not exceeding a year from the time that issue is joined, and a jury sworn upon the same: and if any such party lives in foreign countries, or wants proof from thence, he shall be allowed time at the court's discretion, not exceeding three years\*.

\* A. T. 1736.

A common law court shall be held at Castle-Rushen, or at such other place as the governor shall appoint, at the four following terms of the year : viz. Hilary term, to begin Monday next after the first Thursday in February. Easter term, on Monday next after the first Thursday in May. Trinity term, on Monday next after the last Thursday in June. And Michaelmas term, on Monday following the fifth day of October ; for hearing actions real personal and mixed : at which court, the governor may preside by the deemster : and every defendant to be summoned three days at the least previous to the court day : which summons is to be verified by the oaths of two witnesses : whereupon the plaintiff shall file his declaration, and therein set forth his right or title under which he claims specially ; and if the defendant be off the island, then such summons shall be given not only to the tenant in possession, but likewise notice left at the last place of abode of the defendant : and that each defendant do enter his appearance, and proceed to his defence, so that the same may be tried by a jury the second term : provided, that in case the defendant file a special plea or demurrer within twenty days after the first court, the same shall be argued at such short time afterwards as the court shall upon application direct ; and in case the same be overruled, the defendant shall pay costs at the discretion of the court ; and if within the island, be also obliged to join issue, so as that the cause may come on to be tried at the second court : and if resident out of the island upon the fourth court, and in matters of debt, where either party shall be about to leave the island speedily, the suit may be heard and determined at a special court, upon application to the governor : and in case the defendant, or any of his evidences, live or be out of the island, upon good cause shewn, supported by affidavit, such reasonable time shall be allowed for his defence as the court shall see proper : Provided that the deemster shall hear and determine suits

in a summary way, without a jury, as heretofore accustomed, and that this act shall not restrain the court from giving either party this further time for the appearing to prosecuting, or defending their respective suits, as the court shall direct: any law or custom to the contrary notwithstanding.

And whereas inconveniencies have arisen from proceedings of juries out of court, it is enacted, That all suits at common law, which require a trial by jury, shall be tried and determined at the common law court, and the juries for that purpose shall consist of six men; and the court may, upon cause shewn, order the evidence to be taken in writing, and the jury shall return their verdict in the face of the said court in writing, and not depart therefrom until a verdict is given: and if they do not agree upon a verdict in any convenient time, the court may order them to be confined in some proper place, and not to be discharged until they have returned their verdict to the said court or magistrate. And if any person shall apprehend himself aggrieved by such verdict, he may traverse the same to the house of keys, in all actions wherein the title of land or its appurtenances come in question, and by appeal to the governor in all other cases whatsoever: who shall proceed in such manner therein, as to him shall seem right; and the party traversing or appealing, shall give in bonds in three pounds within twenty-one days from the day of recording the verdict to prosecute such traverse or appeal with effect. Provided that this act shall not alter the present mode of proceeding in a summary way by jury of inquiry to find out lost or stolen goods or trespasses, where a jury of four men shall be sufficient; and that in the trial of all suits where a jury is by law necessary, the court before which such trial is to be, shall at least six days before the sitting of the court, issue process to the several coroners, requiring them to summon two or more good and lawful men, as required out of each parish, of which the ju-

rors shall have at least three days notice, and at the sitting of the said court every coroner shall make a return, in writing, of the names of the persons so summoned, with their addition and place of abode; which shall be written by the proper officer of the court, on distinct pieces of paper of equal size; and be by him given in such court publickly to the judge, or magistrate presiding, who shall cause the same in his presence to be rolled up and put into a box: and when any cause is called to be tried, some indifferent person shall, in open court, draw out six of the said papers. And if any of the persons therein named, and so drawn, do not appear, or shall be challenged by a party, and disapproved by the court, a further number shall be drawn to complete the jury; and the six persons so drawn and approved of and sworn, (their names being marked in a pannel,) shall be kept apart in a box or place during the trial: and the same mode to be repeated in ascertaining jurors as often as occasion requires. And if a cause shall happen to be brought on in the said court, before the jury in any other cause shall have returned their verdict, the court may order six of the remaining number to try such cause, and so on in like manner. And if either party move the court for a special jury, or jury of view, a view shall be granted, and a special jury returned, impannelled and sworn in such fair, open, and impartial manner as the court shall direct.

And it is is also enacted, that the great inquest and long juries, and all proceedings before them, shall cease, and all matters which were formerly cognizable before them, shall be tried at common law \*.

By an act of Tynwald of the year 1793, the powers of the great inquest are restored, except in trying the right of boundaries, not adjoining the commons; and of ways, waters, water-courses, and boundaries between

\* A. T. 1777.

party and party; and that the testimony of witnesses shall be taken in the presence and under the direction of a deemster; and this act gives power of appeal from the great inquest to the house of keys, as in other cases, instead of the long jury.

And by an act of 1796, the island is divided into two districts for holding the common law courts; and it directs that the great inquest of each sheading shall consist of six men out of each parish, and that they shall attend the common law courts of their respective districts.

The act of 1800, directs the common law courts to commence upon Tuesday, next after Monday, before appointed.

### *Chancery Court.*

It shall be lawful for the chancellor to take cognizance of any cause, and to examine evidence therein, and finally to hear and determine the same, and proceed to a decree, at any fourth chancery court, in the defendant's absence or non-appearance: Provided it appears by matter of record that he hath been regularly and legally summoned to the said several courts, and stood out the several attachments and processes of contempt\*.

Whereas the court of chancery hath hitherto exercised a mixed jurisdiction of law and equity, which may occasion doubts and difficulties in practice, and great expence and delay, it is enacted, That the said court shall have full power to make such rules and orders from time to time touching its own practice and proceedings, and for the better conduct of suitors and practitioners as shall be found expedient: which said rules

\* A. T. 1758.



and orders shall be written in a fair hand, and hung up in a conspicuous place in the said court.

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*Court of Exchequer.*

WHEREAS all disputes relating to the rights of the crown, the imposing of fines, and the recovering of debts or duties due to the sovereign, and the determining the rights of tithes, being properly cognizable in the court of exchequer, it is enacted, That the said court shall be held regularly on the day after every chancery court, or immediately after on the same day if the governor shall think proper : And the attorney-general shall, in the first instance, prosecute all offenders in revenue matters by summons or process in the nature of a *capias*, praying an arrest against the defendant's person ; which *capias* is returnable at the next court after the issuing thereof, three days being allowed between the service and such return ; and when any offender shall be thereupon apprehended, or shall have given bail for his personal appearance, the attorney-general shall, before the second court, file an information, setting forth the cause of suit ; of which information being filed, three days notice to be given to the defendant, or his attorney, before such second court, requiring the defendant to appear and plead thereto at such second court ; and in default of such appearance, judgment and execution to go against the defendant's person and effects : and at such second court, the matter shall be heard and determined, unless sufficient cause shall be shewn to the contrary ; and the governor is empowered to make such orders and rules from time to time, for the better regulating the practice and proceedings of the said court, as occasion shall require \*.

*Court of General Gaol-Delivery.*

WHERE any person shall be indicted and committed to prison, at least three days before the sitting of the said court, a jury shall be convened according to ancient custom, consisting of twelve good and lawful men, to try the fact before such court: and the said court shall be held at Castle-Rushen, as occasion shall require, by order of the governor; at which court all persons indicted shall be arraigned as heretofore accustomed\*.

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*Court Ecclesiastical.*

THE spiritual court shall not hereafter imprison any person upon a contempt for not appearing before them upon any process or citation; but instead thereof, upon application to the governor, and producing to him the certificate of the contempt, a soldier shall be granted to take such contemner before the said court, on any day appointed, and a reasonable fine to be set upon him for the contempt, as accustomed in such cases in the temporal courts: Provided that when the sumner is put to trouble to apply for a soldier, the contemner shall pay him twopence for every parish through which he shall travel, before such contemner be released out of the soldier's custody†.

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*Curates.*

ALL curates hired from easter to easter, or longer, shall give a quarter of a year's warning before easter

\* A. T. 1777.

† A. T. 1737.

day to his master, in case his will be to depart, and go away from him : and the master shall give the like warning to his curate, in case he will put him away. Provided the ordinary shall place and displace all such curates at his discretion \*.

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### *Deemster.*

IN great matters and high points, the lieutenant, or any of the council for the time being, to take unto them the deemsters, with the advice of the elders of the land, to deem the law truly to the parties, as they will answer thereof : and all doubtful points to be registered up in the treasury, that they may be ready when the like chance falleth, that one doom be not given at one time, and another contrary †.

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### *Deposition.*

No copy of a single deposition shall be given from the rolls-office, without the whole depositions ‡.

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### *Dogs.*

FORASMUCH as there are daily complaints of great losses and nuisances occasioned by dogs worrying sheep and lambs, and doing other damages in this isle, and that the legal relief against the same hath been found very dilatory and insufficient; for the more speedy and effectual remedy thereof, it is enacted, That after the publication of this act, upon the first instance and complaint of any damage being done by any dog belonging to or harboured by any person, and proof thereof made

\* Book of Spiritual Laws. † Ordinance 1422. ‡ A. T. 1734.

by the testimony of one single witness, or by strong circumstances, before the deemster, who is hereby authorized to take cognizance thereof, or to direct the same to be inquired into by a jury, as he shall, in his discretion, think most proper, and afterwards to judge of the fact, and award the damages, and thereupon to grant execution against persons keeping, harbouring, or encouraging such dogs in or about their houses that shall appear to have done such damages as aforesaid, for the said loss and damage, estimating a mutton after the rate of five shillings, a sheep four shillings, and a yearling and a lamb at three shillings severally; and also order the said dogs to be forthwith hanged or destroyed. And if the fact cannot be made plainly to appear against such dogs in manner aforesaid, but there shall be circumstances that any dog complained of is any way suspicious of the fact, or annoying the high roads, then the deemster may lawfully order such dogs to be forthwith hanged or destroyed\*.

Every person having, keeping, or making use of any greyhound, or half-bred greyhound, pointer, or spaniel, for coursing, pointing, setting, or shooting, or any dog fit for, or that shall be made use of for any of the like purposes, shall yearly pay the sum of six shillings for each and every such dog, and for each and every hound, beagle, or other dog, fit and proper for hunting, or which shall be made use of for that purpose, three shillings yearly, and for every other dog not used for diversion, or fit for killing game, sixpence yearly: which sums are to be collected yearly by the parochial surveyors of the highways, between the first day of September, and the first day of March in each year, and the said surveyors shall make a true account in writing of such dogs in their respective parishes, and by whom kept, and shall deliver the same with the sums collected, to the clerk of the rolls, upon the first or second day of

\* A. T. 1758.

May in each year; and they are thereupon to be allowed and paid a shilling in the pound out of such money, for collecting and paying in the same, and the remainder thereof to be added to the fund, arising from public-house licences, and applied to the use of the highways; and if any doubt or dispute arise concerning the levying and collecting of the said sums, the same shall be heard and finally determined by and before a deemster\*.

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### *Drunkard.*

As often as any man or woman shall be found drunk, the party so offending, if not of ability to pay a fine, shall, for the first offence, be punished in the stocks; for the second, be tied to the whipping-stocks; and for the third, be flogged therein †.

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### *Embargo.*

No order, precept, or command, prohibiting the importation or exportation of any foreign goods, or any goods of the growth, produce, or manufacture of this island, shall be granted or made without the consent of the governor, council, deemsters, and keys of the said isle: Provided, that if it appears upon any just complaint made to the governor, that the public want corn or other necessities by too great an exportation, or suffer by a more than usual importation of any goods or merchandize, then the governor is to call the council, deemsters, and keys to consult and consider of the same, and give orders therein according as they shall see most necessary for the public good of the island †.

\* A. T. 1776.

+ Ord. 1610.

† A. T. 1737.

*Execution.*

WHEN any action is recovered, the moar shall go to his house who is judged to make amends for any trespass committed between party and party, and shall deliver sufficient stress or double within fourteen days after judgment is given; and the said stress to be called at the church three several Sundays together: and if he that oweth it do not come and loose it upon the fourth Sunday or sooner, the officer may sell it lawfully, and the party loseth it for ever, having the overplus paid back to him \*.

Whenever any coroner or lockman shall sell pawn goods, or goods taken in execution under any decree or execution whatever, by public cant or auction, he shall have and be allowed for his extraordinary trouble, loss of time, and expences, a shilling out of every pound, to be retained out of the said goods, exclusive of the creditor's debt, and the former fees and all other charges attending; which poundage is to be regulated by the debt in execution: and in like manner to be allowed upon the sale of any goods by auction under any interlocutory order of the court of chancery, one shilling in the pound of the produce thereof †.

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*Fees.*

THE fees allowed in legal proceedings by the act of Tynwald of 1734, being under the consideration of the legislature, on account of their inadequacy to the times, they are therefore here omitted.

Journies and attendance are to be paid for over and

\* Cust. Laws, 1577.

† A. T. 1748.

besides the fees arising for business done at the place of such attendance.

In case any dispute arises between the attorney and his client, or other party, subject to the payment of a bill of costs, such attorney shall give a copy of the bill to the person disputing the same, and afterwards cause such person to be noticed of the taxation of such bill, six days, at least, previous to the taxing thereof. And in case such bill be found just and fair, upon taxation, the necessary trouble and charges attending the same to the attorney, shall be added and allowed him, along with the amount of such bill.

And in case the said bill be overcharged, and that the party had just cause to litigate the same, then such party shall be allowed for his trouble in the dispute, by the clerk of the rolls, and such allowance to be deducted off the bills of costs\*.

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*Feto de se.*

WHEREAS the wife of John Moore did perish herself: all such goods as were belonging to her are the lord's, by his prerogative, except what belongs to the coroner, which are corbs : viz. Her outermost garment, broken hag-yard, all beasts under three years of age, her part of the houses, these goods being found free.

Item, the deemster to have four shillings, and the moar four shillings, or else the third penny. Such costs as were made on her burial not to be on her part of the goods, for they were forfeited to the Lord before †.

\* A. T. 1777.

† Ord. 1419.

*Felon.*

ALL felons goods, as horses, mares, oxen, and kine above two years old, belong to the lord, and those that are two years and under to the coroner. Also the sheep that be a year old and under have been given to the coroner. And also, if there be a broken rook of oats, we have seen the coroner have the felon's part thereof. All sheep above a year old, and all corn not broken, fall to the lord. Also swine of whatever age, with all other goods, belong to the lord, except the corbs that should pertain to any heir by the law, those the coroner should have. All the goats to belong to the queen of Man\*.

If any inlayne or other by-man, have any goods with a felon, he must make suit for his goods from the time that the felon is indicted, until he be condemned: and if he doth not, the said goods are in the lord's grace, if he be within the land that claimeth such goods.

The deemsters and moars shall have their fees out of the coroner's part: if it come to twelve shillings, the deemster shall have four shillings, the moar four shillings, and the coroner four shillings. If it be under twelve shillings, to have after that rate, and all that is over the said fees to be the coroner's.

Whosoever is apprehended for felony, and condemned to die, the party that sueth him to death can have no more than is found in his hands which he is condemned for, although he confesses that he had more, for that which he had is my lord's by his prerogative.

No person dwelling on the south side shall receive any common thieves which dwell on the north side; and so *vice versa*; for if any do as aforesaid, he is a fe-



lon by the law, as well as he that stealeth the goods : and such to be presented by the great inquest \*.

Wheresoever any thief shall be found to steal either mutton, sheep, lamb, goat, kid, swine, or pig, the same shall not be priced by the jury of indictment, as hath been accustomed, who sometimes valued such goods under the value of sixpence-halfpenny, out of a foolish pity and partial regard, to extenuate the rigour of the law : But every sheep, mutton, or lamb, of what age soever they be, being stolen, shall be found to be felony in the offender to death, *ipso facto*, upon the inquisition taken, without valuing or distinguishing the price.

The stealing and cutting of bee-hives in gardens shall be felony in like manner to death, without valuing the same. And whereas heretofore such as have stolen turf, ling, gorse, robbed gardens, clipped other mens sheep, stolen corn and hay out of fields and hag-yards, stolen geese, hens, ducks, or such like pilferies and felonies, have all of them been connived at and slightly let pass : It is therefore ordained, that all such manner of theft, if it amount to the value of sixpence-halfpenny, shall be felony to death in the offender ; and under that value to be whipped, or set upon a wooden horse ordained for such offenders, at the discretion of the captain : and every coroner, so often as such cases happen, shall choose and impanel of the most sufficient men in the parishes to be jurors : and if any refuse or be disobedient, the coroner to use no delay to present them, that they may be fined, not troubling any of the twenty-four keys in these services, unless they be specially commanded thereto by the captain †.

Whereas juries upon trials of felonies sometimes will not find malefactors guilty, unless the fact be proved against them by two positive witnesses, which can seldom happen : It is therefore enacted, That one credible

\* Cust. Laws, 1577.

† A. T. 1629.

witness proving the fact, and supported by probable circumstances, or the mainour being upon search, or otherwise found with or upon the malefactor as aforesaid, shall be held good and sufficient proof in law to convict such malefactor.

And in case any doubt shall arise to the jury, in relation to any evidences or circumstances before them, they shall ask the opinion of the deemsters, in court, whether the same amount to conviction, or whether the criminal deserves any lesser degree of punishment, as burning in the hand, or whipping : and it shall be lawful for such jury, as such matters shall appear to them, to find and return their verdict in the premises accordingly. But if such jury be found to act partially, or illegally, or contrary to evidence, the keys to be called to pass upon their proceedings in manner as formerly accustomed.

And if any prosecutor in a criminal prosecution, or any other person, by his privity, order, or direction, shall compound or agree not to proceed in such prosecution, after a hand-suit given to the coroner or lockman, or after stolen goods found upon search, pursuant to the deemster's token, or shall by corruption or other indirect means, refuse or decline making proof to the mainour, when found as aforesaid ; such persons, being convicted thereof by a jury, shall be fined any sum not exceeding six pounds, thirteen shillings and fourpence, to the lord of the island.

No court, judge, or magistrate, within this isle, shall impose or inflict any fine or punishment upon any person on account of any criminal cause, until he be first convicted by the verdict or presentment of four, six, or more men, upon some statute-law in force in the said isle ; nor imprison any person arbitrarily, before a proper complaint is made and lodged, and affidavit made to the truth thereof\*.

In all complaints of petty larceny, it shall be lawful for the governor, deemsters, or other magistrates, who have jurisdiction of inquiry, as it appertains unto them in their several stations, to grant the party injured a process to the proper officer, for a jury of inquiry, to inquire of and discover the offender, by examination upon oath, in manner following: That is to say, upon such complaint of petty larceny, in all things left to the valuation of a jury, by the statute 1629, and other instances of such like nature, the method of proceeding shall be, that all suspected persons and others, who shall be summoned to the jury of inquiry, which in that case is to consist of six men, shall be examined upon oath, and be obliged to give their oaths in relation to the committing the fact inquired of, either by themselves or others; and if any person conscious of his guilt, shall refuse to give such satisfaction upon oath, for the discovery of the offender, the person so refusing shall be held as guilty of the fact. Or if the larceny shall, upon inquiry, be found by the jury, in either case they shall verdict and leave the offender to be fined and punished at the discretion of the court: Provided, that if the larceny in question shall appear or turn out to be grand larceny, to the amount of sixpence-halfpenny, by the valuation of the jury, then the same jury shall proceed by way of inquisition for felony: and upon proof, confession, strong presumption, or suspicion supported by prevailing circumstances, shall indict the offender, according to the common course of law; and the oath first given them shall be to that effect \*.

When any person shall be apprehended on suspicion of having committed treason or felony, the coroner in whose sheading the same has been committed, shall, after the offender is taken into custody, and secured by him *ex officio*, thereupon proceed by warrant from a deemster, and summon a jury of six good and lawful

men, out of the sheading, together with all such persons as can give any testimony in the matter to appear before the deemster; and in his presence, and under his direction, to make inquiry, and take evidence in writing, touching the facts complained of. And the deemster, after due inquiry and examination had as aforesaid, is hereby required to receive the indictment or verdict of the said jury. And to transmit the same, together with the depositions, to the rolls-office, and to release, admit to bail, or imprison such person so indicted, as the nature of the case shall require.

And when the prisoner is so indicted and committed to prison, at least three days previous to the court of general gaol delivery (at which court all such persons are to be arraigned and tried) a jury shall be convened according to ancient custom, consisting of twelve good and lawful men, to try the fact before such court \*.

By the act of 1796, any person, by word or writing, using any expression tending to bring into hatred or contempt the person or government of his majesty, on conviction, is subject to a fine of one hundred pounds, and to imprisonment, not exceeding six months: prosecution to be *effected* within one year from the time of the commission of the offence.

The act of 1796, for the punishment of forgery, perjury, subornation of perjury, and cheating or swindling, and which subjects the offender to fine, imprisonment, and corporal punishment at the discretion of the court, being under the consideration of the legislature, in order to its repeal and amendment, it is unnecessary to enlarge upon its contents.

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### *Fodder-Jury.*

No cotler, intack-holder, or cottage-holder, or any

\* A. T. 1777.

other, shall keep more horses, cows, oxen, sheep, or any other such cattle than what they have sufficient pasturage for in the summer, and a sufficiency of hay, or other fodder, in the winter. And the coroners of the several sheadings are to impanel and swear four honest men in every parish (three of whom at least to be farmers) upon the 25th of March, in each year, to be a standing jury, and make inspection into what provision of grass and fodder the said cotlers, intack, and cottage-holders, or such like persons do make for their said cattle, as well in summer as in winter; and to make true report thereof in writing under their hands, unto the governor and officers at the first courts that are holden after the 25th day of March, and 29th day of September, in every year, or at other courts, when thereunto required, that the court may judge whether such persons have made sufficient provision of fodder. And if they find upon such report, that any such person doth keep more cattle than what he hath made provision for, an order is to be granted from the said court to the coroner, to make sale of such cattle as provision hath not been made for, according to the current prices or rates, and to deliver the price thereof to the owner of such cattle, deducting a shilling out of the pound for his trouble.

And if the said jury be remiss, or partial in their proceedings, upon complaint and proof thereof made, they are to be fined and punished at the discretion of the governor and officers\*.

If any coroner neglect or refuse to swear a fodder-jury yearly, upon the 25th of March; upon complaint made, or knowledge given thereof to the court, he shall be fined three pounds to the lord. And the fodder-jury, when sworn, shall directly proceed to do their duty, under the penalties prescribed by the said former act, and that *ex officio*. And the farmers are to be included, and proceeded against in the same manner as

\* A. T. 1691.

the intack and cottage-holders, each of them to give an exact account of his cattle, horses, and sheep to the fodder-jury, under penalty of three pounds for every default; and the jury is to take especial care that all persons whatsoever have provided sufficient fodder, and have the same in their own possession, otherwise to proceed against them, according to the directions of this and the former act, not allowing the common and evasive excuse of depending on being supplied by others; and to the end that such juries be made up of the better sort of people, the coroners are to give a list of their names some days before they are sworn to the deemsters for their approbation \*.

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*Forester.*

THE forester, or his deputy, ought to go forth through the forest to the highest hill, and there blow his horn thrice; the same done, after to range and view the forest, and on the third day to go forth, and such company as he shall think fit, to see what sheep there be unshorn. And if he find any such, he ought to take them with his dog (if they be not milch sheep) to shear them, and take the fleece to his own use, and put a private mark on the said sheep, to the intent, that if any such sheep be found the next year by the said forester, he shall certify the *comptroller and receiver* of the same, that they may be recorded in the court books, that they may be appraised and sold to the lord's use: and if he find any lamb, sheep, goat, or kid within the forest, unmarked, he ought not to claim such as due to the forester, but to put a private mark on the same, to the intent, that if he finds any such the next year, not

\* A. T. 1753.

claimed by any person who hath just title thereto, then the same to be appraised and sold to the lord's use \*.

It shall not be lawful for the forester to go forth to clip sheep on the commons as his perquisite, till the 21st of June in every year †.

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*Fraud.*

ALL fraudulent assignments, or transfers of debtors goods, shall be void against just creditors ‡.

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*Game.*

If any hawk, or heron, hart, or hind, be taken by any manner of man, he forfeiteth for every time, three pounds to the lord §.

Whosoever goeth to the forest, either by day or by night, to kill the lord's game, ought to pay three pounds for every one of them, as well young as old ; and for every tame deer five pounds ; and to be imprisoned at the discretion of the officers. And whosoever goeth to the hough where the hawks or herons do breed, if he takes any one of the old or young ones, or their eggs, he forfeits three pounds a-piece to the lord ¶.

And if any persons go to the houghs where the herons do breed, to take old or young herons, or their eggs, or goeth by day or night, with his bow and arrow, to the forest, to kill the lord's game, they shall be presented by the great inquest.

\* Ord. 1504.

+ A. T. 1748.

‡ Ibidem, 1737.

§ Ibid. 1422.

¶ Cust. Law, 1577.

Whereas of ancient time it hath been accustomed, that no person shall use shooting with a hand-gun, at any fowl, or hunting or coursing the hare within a certain circuit near unto the castle; that is to say, from the said castle, near unto Kentraugh Bourn, in Kirk Christ Rushen, and following the said Bourn up to the Fell-dike, to the north-eastwards, unto Kirk-Santan Bourn, and so along the said Bourn to the eastwards, unto the Castle again; which said circuit hath been reputed and called the Lord's Warren: It is ordered by the captain, council and deemsters, that no person, of what estate, condition, or degree soever, (the said captain and council excepted,) shall shoot with his hand-gun, or fowling-piece, at any fowl, or hunt, or course the hare with any greyhound, bitch, beagle, cur, or mongrel, wittingly and willingly, within the said circuit, upon pain of forfeiting to the lord, for every time, two shillings and sixpence, to be levied upon his goods, lands, tenements, wages, or fees, without the especial licence of the said captain and council, or one of them, they or any of them, licensing any person so to hunt, or shoot, for the use of the person so giving license, and not for the use and pleasure of the person so shooting, or hunting; and that there shall be six honest and substantial men, dwelling in several parts of the said circuit, at the discretion of the said captain, chosen and sworn at every court, to come in; and that they, jointly or severally, present all offenders herein; and that there shall be four honest and substantial soldiers, who are not common shooters, or hunters themselves, by the like discretion of the captain, chosen and sworn to make presentment of such of the soldiers, or others, as offend as aforesaid; and it shall be lawful for all other persons to make such presentments. And if any of the persons chosen to make presentments as aforesaid, do know of any such offender, and not make presentment thereof, at the next court after, they shall be punished as for perjury. And this



order to be in force until the lord's further pleasure be known \*.

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### *Great Inquest.*

It is enacted, that when any person comes to the coroner, lockman, or serjeant of any barony, with authority to convene the great inquest upon any cause, such person shall, besides the usual fee, deposit two shillings into such officer's hands, to the end that the same may be applied to the charges of the said inquest: Yet, if it should afterwards appear that the defendant was the cause of the trouble given to the said inquest, it shall then be lawful for the magistrate who accepts their verdict, to grant immediate execution to the plaintiff, to levy as well the said two shillings, as all other occasional fees, of and from such defendant, without further suit †.

Whereas disputes concerning ways, water-courses, and boundaries, and the like, have been inquired and decided in by great inquests: It is ordered, that no such dispute shall go to a second great inquest, but that all disputes and differences whatsoever, proper for the inquiry of a great inquest, shall first be verdicted in by such great inquest; and either party may, within twenty-one days from the recording of the verdict, and not afterwards, be admitted to traverse the same to a long jury of twenty-four men, to be impannelled and sworn as formerly, giving bond to the clerk of the rolls, in the penalty of three pounds, to the lord's use, to disprove such verdict by the long-jury: and he shall be obliged to prosecute the same with effect, so as that the long jury give in their verdict within six months from the entering of the traverse, or at the next court of general gaol delivery, after the expiration of the said six months, upon pain of commitment, until they agree and give in the same.

\* Ord. 1585.

† A. T. 1737.

And either party may also, within the like number of days, traverse the verdict of the long jury to the house of keys, giving in bond as aforesaid. And this traverse shall likewise be prosecuted with effect, at the next meeting of the keys, to determine common law causes. And then, if occasion be, the said keys, or a committee of them, not under six, to be nominated by the house, may, for their better information, take a view of the place or subject in dispute, and make report thereof to the rest; after which view, (if necessary) hearing the parties, and considering the matter, the return of the keys to be delivered to the governor: and it shall be lawful for the keys to return such great inquest and long jury, or either of them that shall be found to have acted partially, wilfully, or erroneously, to the mercy of the court for a fine, not exceeding ten shillings a-piece. And if, through the default of the party, the long jury's verdict, or the return of the keys, be not given in within the time before limited, the cause shall be dismissed, and the verdict traversed enforced: and the party failing to be at the mercy of the court for the penalty of his bond, and pay all charges by immediate execution from the magistrate concerned \*.

Whereas, from the proceedings of the great inquest, a traverse lay to a long jury, and from them to the house of keys, which mode of proceeding is found to be dilatory and vexatious. It is therefore enacted, That the great inquest, and all proceedings before them, shall cease; and all matters heretofore cognizable before the great inquest and long juries, shall be tried and determined at common law †.

\* A. T. 1753.

† A. T. 1777.

*Herrings.*

WHEREAS the herring fishery hath been for many years uncertain, and yet several have bought up and transported fresh herrings before the country has been supplied, to the great detriment of the public; It is therefore enacted, That no person shall be allowed to buy up any herrings for exportation from this isle, or the coast thereof, until the country be supplied; that is to say, as long as the herrings may be bought at one shilling and twopence the hundred, or above; and that the fishermen have a vent for the same at that price within the island; and if any offend herein, they shall forfeit as follows: viz. The buyer to forfeit all such herrings as shall be bought for exportation, or the value of them, and the seller a sum equivalent to the price; to be levied by execution from the water-bailiff, upon proof made before him: one half to the informer, and the other half to the poor of the parish\*.

*High-Bailiff.*

WHEREAS it hath been judged expedient to erect a new jurisdiction in each of the four market towns, for hearing and determining matters of debt under forty shillings: It is therefore enacted, that it shall be lawful for the high-bailiff of Castletown, for the time being, to issue his warrant for the convening of any party, witness, or other person whom it may concern in matters of debt, arising within Castletown aforesaid, or the several parishes of Malew, Santon, Arbory, and Rushen, in which warrant the sum in demand shall be specified, and shall not amount to forty shillings. And the said

\* A. T. 1737.

high bailiff is authorised to hear and determine every such cause at Castletown aforesaid, and to give judgment therein, and grant execution for such debt and costs in his discretion, in such and the like manner and form, and with the like authority and jurisdiction as the deemster now doth and hitherto hath done.

And the high-bailiff of Douglas is in like manner authorised and empowered with respect to such cause arising within the said town, or the several parishes of Lonan, Conchan, Braddan, and Marown.

And the high-bailiff of Peel is in like manner authorised with regard to such causes arising within the town of Peel, or the several parishes of Patrick, German, Michael, and Ballaugh.

And the high-bailiff of Ramsey is in like manner empowered with respect to such causes within the said town, or the several parishes of Jurby, Andreas, Bride, Lezayre, and Maughold; which said high-bailiffs are to be appointed by the governor for the time being; and all coroners, lockmen, petit constables, and others, whom it shall concern, are required to yield obedience to the directions, orders, and judgments of the said high-bailiffs, in like manner as they have hitherto given obedience to the directions, orders, and judgments of the deemsters: But if any party find himself aggrieved by the order or judgment of a high-bailiff, he may prefer his appeal therefrom to the deemster, and the said high-bailiff shall accept the same, provided it be preferred within seven days from the day of the service of such order or judgment, which service is to be certified by the officer executing the same, and the certificate exhibited to the high-bailiff along with the appeal: And that the appellant do enter into a bond with or without sureties, at the discretion of the high-bailiff, in the rolls office, in the sum of three pounds to our lord the king, that he will prosecute such appeal with effect within the term limited in the acceptance thereof, which shall not exceed one month: And shall also answer such judgment, costs, and charges

as shall be awarded by the deemster, in case the order or judgment appealed from be affirmed : But if no appeal be preferred, or if bond be not entered into as aforesaid, then the said judgment of the high-bailiff to be forever after final and conclusive upon all parties. And if any high-bailiff, upon the hearing of a cause, find that the plaintiff's debt, exclusive of costs and fees, amounts to forty shillings, he shall dismiss such suit, for want of jurisdiction, with costs. And if any party shall commence a suit before the deemster, for the recovery of a debt, or other demand, under the value of forty shillings, or without shewing good cause why he apprehended that the same should amount to that sum, it shall and may be lawful for the said deemster to dismiss such suit with costs, as not cognizable by him. And it is further enacted, that no party, plaintiff, shall recover any debt, or demand, unless he shall serve the defendant with an account, or state of his claim or demand, three days at least, before the hearing of the cause by the said deemster, or high-bailiffs, or any of them ; and that every civil duty and power heretofore vested in the captains of the towns aforesaid, shall be committed to the jurisdiction, orders, and directions of the high-bailiffs : and that in their respective towns the said high-bailiffs shall have full power to make and give such rules, orders, and directions with respect to the repairing, amending, and completing of the several streets, and the removal of the encroachments, nuisances, filth, and rubbish in the said towns or districts thereto belonging, in such manner as in their judgment shall be most conducive to the public convenience : and that it shall be lawful for the said high-bailiffs, in their respective towns and districts, to take the acknowledgments of parties, and testimony of witnesses, for the probate of all deeds and instruments, in as ample a manner as the deemster hath hitherto practised, or shall be lawfully authorised to do ; and that the said high-bailiffs, in the execution of their office, shall be considered and reputed as civil

magistrates of this isle, to all intents and purposes whatsoever; and that the said high-bailiffs shall have concurrent jurisdiction with each other, as occasion may require \*:

### *Highways.*

It is enacted, That the governor, with the council and keys, shall, from time to time, as it shall become necessary, appoint a committee, consisting of five persons; and if it shall appear to such committee necessary, or commodious for the public, to cut through the lands of any person, for the purpose of making a new highway, or of amending or improving any highway, the said committee, or a majority of them, shall have full power to survey and lay out the ground for such purposes, and to give such orders and instructions in writing, for the laying out, making, and completing such highways, as to them, or a majority of them, shall appear necessary. Provided that the said highways be not cut through any house, garden, orchard, or yard, severally adjoining, or near unto any dwelling-house; and that the owner of such lands through which such new highways shall be made, shall receive such reasonable satisfaction for damages, as the said committee, or a majority of them, shall award. And the said committee, or a majority of them, shall have full power to give the old highways to such owner, or owners of the lands through which the new highways shall be made, so far as the same adjoin their respective properties, in lieu of, or in part satisfaction for such new highways, and the damages aforesaid. And the said committee, or a majority of them, shall annually settle all accounts and sums of money,

to be levied, paid, and expended by virtue of this act : and the governor shall, from time to time, by writing under his hand and seal, appoint a surveyor, or surveyor-general of the highways, to act for and under the said committee, with power to view and survey the making of such highways to be laid out, amended, and completed by virtue of this act ; and also to give the necessary directions to the several parochial surveyors of the highways, in the execution of their duty, and to procure and employ workmen, horses, implements, materials, and other necessities, for such purposes as he or they shall find needful. And it is further enacted, That the coroners shall, when thereunto required by a surveyor-general, return to him the names of proper persons to serve as parochial surveyors within the respective parishes, who are to be approved of by a surveyor-general, as also by a deemster, who is hereby ordered to swear such parochial surveyor into office, after being so approved of : And in case any person so returned and approved of, shall refuse to take upon him such office, he shall, for every offence, forfeit the sum of one pound ; and thereupon another person shall be returned, approved, and sworn, in manner aforesaid. And each parochial surveyor shall, within one month after being duly sworn into office, duly survey the state of the highways and bridges within his district : and in case any of them be out of repair, he shall report the same to a surveyor-general. And when any of the said highways are ordered to be altered or repaired, the parochial surveyors shall summon the several land-owners and others compellable to perform their parish-labour, in manner herein after directed : and the said parochial surveyors shall take due care of, and be accountable for, all utensils, tools, and other implements provided for the use of the said highways. And it is further enacted, That the proprietor or occupier of every quarterland, or baron-land computed to be equal to a quarterland, shall,

upon two days previous notice given by summons, to such proprietor or occupier, send four men, and so on in proportion, to be employed in the making, altering, or repairing of the said highways. And all proprietors or occupiers of dwelling-houses, situate on quarterlands or baron-lands, (so that the premises do not pay more than one-fourth of the chief rent of such quarterland or baron-land,) shall send one man. And all proprietors of dwelling-houses, or on cottages and intacks not exceeding two shillings original chief rent, shall send one man. And every proprietor of each and every cottage or intack, from two shillings to seven shillings and sixpence original chief rent, whether such cottage or intack be dwelt upon or not, shall send one man. And every proprietor or occupier of intacks, from seven shillings and sixpence, to fifteen shillings, chief rent, shall send two men. And the proprietors or occupiers of each and every intack, from fifteen shillings to one pound two shillings and sixpence original chief rent, shall send three men. And every proprietor or occupier of intacks, from one pound two shillings and sixpence, to one pound ten shillings, (which original chief rent of one pound ten shillings is to be deemed equal to a quarterland,) shall send four men: and so on for intacks of greater rent, in the same proportion. And when it is found necessary to employ carts, or wheel cars, for the use of the said highways, every person having in his possession one or more carts, or wheel cars, fit for carrying stones, gravel, or other necessary materials, being so summoned as aforesaid, for that purpose, shall send one such cart, or wheel car, with an able or sufficient horse, or horses, and driver, to and for the use of the said highways; and one day's labour with such cart, and two such able horses and driver, shall be deemed and taken for one turn, or four men. And one day's labour of a cart or wheel car with one horse and a driver, shall be taken for two men. And the parochial surveyors shall give such notice or summons as aforesaid, in a



regular course ; and such labour done by the several inhabitants of each parish in rotation, shall be deemed a turn of such parochial labour ; which labour is to be done in rotation as aforesaid, as often as occasion may require ; so that the same does not exceed three turns in any one year. And in case any person so summoned as aforesaid, doth not perform the said labour, the parochial surveyor shall forthwith make presentment of the default, and cause the party to be summoned before the governor, or deemster ; and such party shall, upon conviction, be obliged to pay on account of every labourer failing to attend as aforesaid, one shilling. And for every default in not sending such cart or carts, car or cars, with horses and drivers as aforesaid, two shillings and sixpence, to be levied by distress or execution, with costs. The parochial surveyor, and such persons as he shall appoint, may dig, gather, take and carry away in and through the lands of any person adjacent, or near unto the said highways, any stones, gravel, sand, or other materials, where it may be most proper or convenient for the use of the said highways, (save and except gardens, orchards, and yards, adjoining or near unto any dwelling-house) so as the least damage to the proprietors be thereby occasioned ; and also to make ditches and drains in and through the lands adjoining the said highways, for the carrying off the waters lying thereon ; which ditches and drains, when made, are to be kept properly cleansed and open by the proprietors of such lands.

And it is also enacted, That an additional sum of nine shillings and ninepence be laid on ale-house licences, and that the same, and also the clear monies arising from the tax upon dogs, shall be applied for the making, altering, and repairing the said highways, under the directions herein before provided relative to the said fund.

The keys, or any of them, and the surveyor-general or parochial surveyors, shall severally have full power,

upon view, to make presentment of all obstructions and other nuisances wilfully done to the highways, or the milestones thereon: And the offenders therein shall, upon conviction before the governor or deemster, be fined any sum, not exceeding three pounds, according to the circumstances of the case, to be levied by distress and execution: and in case any person shall wilfully and obstinately obstruct the said committee, surveyors-general, or parochial surveyors, or any of them, or any person by them employed for the purposes of this act, he shall, upon conviction before the governor or deemster, be fined three pounds, and committed till the same be paid: and the respective fines herein before mentioned, shall be applied to the use of the said highways; which said highways to be made in pursuance of this act, shall be eight yards from ditch to ditch.

And it is enacted, That the highway from Castletown to Douglas, shall be continued through Newtown; and that the several surveyors, during their office, be exempt from all other parochial services, and shall for their trouble have, at the discretion of a surveyor-general, a sum not exceeding one shilling and twopence each day, in the discharge of his duty, without the special appointment of the committee, who are authorised to make such reasonable compensation to the surveyors-general, for their trouble and expence in the discharge of their duty, as to them shall seem fit: and it shall be lawful for the surveyor or surveyors-general, as often as he or they shall think proper, to discharge any parochial surveyor for neglect of duty, and to appoint another person in his place; so that such other person be approved of and sworn, as herein before mentioned\*.

*Horses.*

ANY person keeping a stone horse under the value of six shillings and eightpence, shall be presented by the great inquest.

If any persons keep scabbed horses or mares, the coroner ought to bring them to the next hough, and cast them down there, and the owner to be put in three shillings and fourpence fine, and presented by the great inquest, and the coroner to have a shilling for his pains; and if he does not his duty therein, to be fined thirteen shillings and fourpence \*.

Whosoever shall be found or detected to pull horses tails, shall be set on the wooden horse, thereon to continue for the space of two hours, and to be whipped from the waist upwards †.

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*Insolvent.*

WHEREAS it has been the practice to give the natives of the island a preference to strangers in the recovery of debts from an insolvent debtor, it is hereby enacted, that all his majesty's subjects, and all others, whose prince is in amity with the Crown of Great Britain, shall have the same rights and privileges in the payment of their just demands, upon the distribution of insolvent debtors estates, as the natives of the island have heretofore had, provided that the governor, upon granting a decree on a claim against any of his majesty's subjects, or others in amity with his crown, residing in this isle, for debts contracted and due previous to such their residence here, may exclude the whole of such debt, or order and allow such part or proportion thereof to be

\* Temp. Cust. Laws, 1577.

† A. T. 1629.

paid in a proper dividend and share with the other creditors, out of such insolvent estate, as to him shall appear just and reasonable according to the circumstances of the case, provided that landlords rents and servants wages shall be always paid in preference, as heretofore accustomed. And any person imprisoned for debt under a decree or judgment, and it appearing to the court, that such person hath faithfully and justly accounted for all his effects, upon oath ; and hath delivered up the same without fraud or collusion to satisfy such decree or judgment ; in every such case the governor may order and allow such person a daily sum, not exceeding sixpence each day, to be advanced and paid by the plaintiff, for subsistence, during the time such person shall afterwards remain imprisoned. And in default of the like payments weekly, the governor may lawfully order the said person to be enlarged ; provided that the sums paid for subsistence as aforesaid, shall be a lawful charge against the defendant and his effects, as well as the sum or part of the decree or judgment remaining unsatisfied at all times afterwards, until the same be discharged \*.

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### *Intestate.*

THE personal estate of any person dying intestate, after payment of debts and funeral expences, shall be distributed in manner following : That is to say, one half of the surplusage to the wife of the intestate, and the residue by equal portions amongst the children of the intestate, and such persons as legally represent such children in case any of the said children be then dead, other than such child or children as shall have any estate by settlement of the intestate, or shall be advanced by him,

in his lifetime, by portion or portions equal to the share which shall be by such distribution allotted to the other children to whom such distribution is to be made : And in case there be any child who shall have any estate, or be advanced as aforesaid, by portion not equal to the share which will be due to the other children by such distribution, then so much of the said surplusage is to be distributed to such child as will make the estate of all the said children to be equal, as near as can be estimated : and in case there be no children, nor any legal representatives of them, then one moiety of the said estate to be allotted to the wife as aforesaid, and the residue to be distributed amongst the next of kin of the intestate, in equal degree, and those that legally represent them, provided that no representation be admitted among collaterals, after brothers and sisters children ; and if there be no widow, then the said personal estate to be distributed equally among the children ; and in case there be no child, then to the next of kindred, in equal degree, and their legal representatives : And if there be neither wife nor child, the whole of the said estate to go to the father ; and in case there be no father, then to be distributed equally to and amongst the mother, brothers, and sisters, or their legal representatives ; and if there be neither father, mother, brother, or sister, then to the next of kindred, in equal degree of, or to the intestate \*.

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*Jury.*

No restraint shall be laid or continued upon any jury or inquest longer than for six hours after being agreed upon a verdict, and such verdict written, and by them signed and offered to the proper magistrate.

\* A. T. 1777.

The verdict of all great inquests, setting quests, and slander juries shall be delivered and received in the presence of both parties, or their agents or attorneys, in public court, as anciently accustomed, or by the proper magistrate out of court ; but that to be likewise made known to, and done in the presence of the parties, their agents or attorneys, who for that purpose are to attend at such court, as well as before such magistrates, where such verdicts are to be taken, to make their objections, if they have any, otherwise the same to be received, and the proceeding to go on in his or their default ; and to prevent corruption and partiality in juries and inquests, it is enacted, that if any juror or inquest man take any fee or reward from any person whatsoever, either in money or otherwise, and be thereof lawfully convicted, he shall be prosecuted and punished as in the case of perjury : And if any juror or inquest man be treated with liquor, or otherwise, by either party, in any suit to be tried, or depending before them, without the consent of the other party, such juror or inquest man shall be fined six shillings and eightpence, upon proof made against him before the governor or deemster, and be discharged from such jury, and another man sworn in his place\*.

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### *Keys.*

In all great matters and high points that are in doubt, ever as they fall, the lieutenant, or any of the council for the time being, to take the deemsters to them, with the advice of the elders of the land, to deem the law truly to the parties, as they will answer thereof : and that all doubtful points be always registered up, and laid in the treasury, that it may be ready when such a

\* A. T. 1737.

chance falleth, that one doom or judgment be not given at one time one way, and another time contrary\*.

The keys of this isle, shall at no time be kept together after being agreed upon their return or judgment; and such return or judgment by them, or a majority of them, written, signed and delivered to the governor, and during the time they are hearing causes, none shall presume to insult or abuse them, upon pain of being confined by order of the governor, upon application by them made for that purpose, until the offender give in bail for his good behaviour, until the next court of general gaol delivery, and be fined in any sum, not exceeding six shillings and eightpence, as the case may demerit †.

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*Land.*

ALL quarterlands, with the mills, cottages, and intacks of ease thereunto belonging, to which any tenant may be entitled by descent from his ancestors, shall descend and come after the death of such tenant to his eldest son: And for want thereof to his eldest daughter: And in default of such to the next of kindred ‡.

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*Land overflowed with Water.*

COMMISSIONERS shall, from time to time, as occasion may require, be appointed by the governor, council, and keys, at a Tynwald court, consisting of five skilful and proper persons, with full power to act as herein after mentioned: And if any person having grounds over-

\* Ordinance, 1422.

† A. T. 1737.

‡ A. T. 1645.

flowed with water, shall make application to the governor; upon hearing the parties and good cause shewn, he may order the said commissioners, at the expence of the party so applying, to view the premises; and they, or a majority of them, shall, by order in writing, direct from a proper level, a sufficient and effectual channel, drain, or outlet, according to the nature and situation of the ground, to be made, for the effectually draining such fens, and carrying off the stagnated waters. And after the commissioners have made their order, the party so applying shall duly serve the persons through whose grounds the said channel is directed to be made, or who may be affected thereby, with a true copy of the said order. And in case any such persons shall find themselves aggrieved thereby, they shall be at liberty to bring their complaint against the same to the governor, within eight days after such service; who shall thereupon, judicially and finally hear and determine the merits of the said complaint and order. And in case no such complaint be preferred within the time aforesaid, the governor, upon certificate of such notice being given as aforesaid, shall direct the said order of the commissioners to be carried into execution: and the proprietors of the lands through which such channel is directed to pass, shall, at their own costs and charges, make such channel in such manner as directed by the said order.

And in case any person neglect or refuse to comply with the said order, the commissioners shall, by writing under their hands, appoint a proper overseer, effectually to carry on and complete the said channel, through the lands of such person so refusing or neglecting; which overseer upon producing his account of the expences of the work, upon oath, before the governor, shall have judgment and execution granted against such person or persons, for the full amount thereof, with an allowance of one shilling and sixpence per day, for overseeing the said work: And in case any person shall wilfully obstruct the said commissioners and overseers,



or other persons by them employed in the discharge of their duty, under this act; the governor shall, upon certificate made thereof, by the said commissioners or overseers, order the offender to be committed to prison, until he give in good and sufficient security to offer no further obstruction: And the work to proceed in the mean time, as if no obstruction had been given\*.

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### *Legacies.*

LEGACIES are to be paid within ten or fourteen days after the probate of the will†.

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### *Licence.*

It is enacted, that the ancient laws, with respect to forfeiting vessels and goods, for carrying persons off the island without a licence, be repealed; and that any ship, vessel, or boat, which shall carry any person or persons off the island, without the governor's licence, shall forfeit any sum, not exceeding ten pounds, to the lord, to which forfeiture the master of the vessel shall be liable in the first instance, over and besides paying the debts which such persons did owe in the island, at the time of their departure, as mentioned with respect to assisting debtors to escape off the island, [See Debtor.] But if the master be absent or insolvent, the vessel to be then subject to the said fine and debts in manner aforesaid; but not to be so liable longer than

\* A. T. 1776.

† Sp. Cus. Laws.

for the term of two years, unless she continues to be the real property of the same owner \*.

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*Lord.*

**LORD'S CLOSES.** All persons whose tenements or grounds soever, abutt or adjoin the Lord's pastures or closes, shall make the ditch and ditches of the said closes, so far as their grounds extend, at their own proper costs and charges, and shall keep the same in sufficient repair, both winter and summer, on pain to forfeit, for every time the keeper of such closes shall make true presentment of the default in any court by his solemn oath, three shillings and four pence to the lord †.

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*Market.*

No market to be kept on the Sabbath day, on pain of fine and imprisonment.

All the inhabitants of Kirk Christ Rushen, Arbory, Malew, Santan, Marown, Patrick, German, Ballaugh, and Michael, shall keep the ordinary market days appointed within those limits, and bring thither all such victuals, corn, wares, and merchandize, which they have to spare or sell, on pain of imprisonment and fine to the lord; and if they cannot sell there, then to be at liberty to take them elsewhere.

And none shall sell any corn to the strangers, but first they shall tender the same, or a sufficient part thereof to the market, that the country may be first served ‡.

\* A. T. 1737.    † Ordinance 1583.    ‡ Ord. 1594.

As often as the Feast of St John the Baptist falls upon the Sabbath day, the Tynwald and the fair shall then be kept on the following day : And in like manner all other fairs and markets shall be transferred to Monday, as often as the fair days fall out upon the Lord's day \*.

No person shall, by himself, his agents, or servants, by way of engrossing, or forestalling, or regrating, buy any corn or grain, or other merchandize or provisions to sell the same again, on pain to forfeit the goods so bought, or the value thereof, to the lord.

And if any persons, by themselves or their servants, or agents, ingross, or buy out of market, any corn or other goods, and sell the same again, they shall forfeit such goods, or the value of them to the lord : And it is declared, that any person who shall buy, or cause to be bought, any merchandize or other thing, coming by land or water, to any fair or market, to be sold therein ; or coming towards any town, village, port, haven, creek, or road, of this island, from beyond sea, to be sold ; or make any bargain for the buying thereof, before the same shall be in such market, fair, town, &c. ready to be sold, or shall make any motion, by message, or otherwise, to any person for changing the price, or dear selling of any of the things aforesaid, or move or stir any person coming to the market or fair, to forbear to bring any of the things aforesaid, to any fair or market, town, port, haven, or creek, to be sold, shall be judged a forestaller †.

Whoever shall engross, or get into his hands, by buying, contract, or promise, (other than by demise, grant, or lease of land, or tithe) any corn growing in the fields, or any other corn or grain, butter, cheese, fish, or other dead victuals, within the said isle, to the intent to sell the same again, shall be deemed an ingrosser ‡.

\* Ord. 1610.

† A. T. 1637.

‡ A. T. 1691.

It is enacted, that in case any person shall bring to market, veal before it has come to the age of three weeks at the least, and be fit and wholesome to eat, the constable and clerk of the market shall seize upon such victuals; to wit, veal under three weeks old, and also such lambs, kids, and pigs, as shall appear unmarketable, in respect of their leanness and tenderness of age, and distribute the same to the poor of the town, or otherwise to burn the flesh in some convenient place, and the owner not to have any recompense: and if the owner give any opposition thereto, such constable and clerk of the market to make presentment against him, and he shall be fined and punished at the court's discretion\*.

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### *Marriage.*

NONE to be married until they have received the communion of the Lord's Supper, unless being an orphan, there be occasion for his speedy marriage; and this to be approved and dispensed with by the ordinary, for a limited time, to fit himself for the sacrament: and where any of them are of another parish, they are to bring a certificate from their proper pastor†.

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### *Marriage Act.*

ALL banns of matrimony shall be published in an audible manner, in the parish church to which the persons to be married belong, according to the form of words prescribed by the rubrick, in the book of common-prayer, upon three several Sundays, during the

\* A. T. 1673.

† A. T. 1704.

time of morning service, or of evening service, if there be no morning service in such church, upon any of those Sundays, immediately after the second lesson; and if the parties live in different parishes, the banns shall be so published in the parish church to which each of them belongs; and the rules prescribed by the said rubrick, for the publishing of banns and solemnization of matrimony, and not hereby altered shall be observed: and that the marriage shall be solemnized in one of the parish churches where the banns have been published, and in no other place. But no minister shall be obliged to publish the banns of matrimony, unless the persons to be married shall, seven days at least before the time required for the first publication, deliver, or cause to be delivered to such minister, a notice in writing of their true christian and surnames, and of the house and houses of their respective abodes, and of the time they have dwelt therein. And no such banns shall be published in any church of this isle, if either of the parties be aliens, or strangers, who shall resort, or come to this isle, unless such stranger shall have resided here at least three months, and one month in such parish before such publication. And no minister solemnizing marriage between persons, both or one of whom shall be under the age of twenty-one years, after banns published, without consent of parents or guardians, shall be liable to punishment, unless he have notice of the dissent of such parents or guardians: and in case they, or one of them, shall publicly declare, or cause to be declared in the church, at the time of the publication of banns, his, her, or their dissent, such publication of banns shall be absolutely void.

And no licence of marriage shall be granted by the bishop, vicar-general, or other person, to solemnize any marriage in any other church or chapel, than in the parish church belonging to the parish in which the usual place of abode of one of the parties hath been for three months before the granting of such licence, and in no other place whatever: Provided that this act shall not

deprive the bishop of the right of granting special licences, to marry at any convenient time and place, so that such licensee be under his own proper hand and seal episcopal; and that licences of marriage shall not be valid unless the same be under the hand and seal of the person authorized to grant the same; and that no such licences shall be granted to any person but according to the canons of 1703, relating to marriages. And if any person do solemnize matrimony in any other place than as aforesaid, or without publication of banns, or licence as aforesaid; every person wilfully offending therein, and being lawfully convicted thereof, if persons holding or exercising any ministerial function in the church of this isle, shall be deemed guilty of felony, and transported to some of his majesty's plantations in America, for fourteen years: And if such offender be an alien, or stranger, and not of the ministry of this isle, and convicted as aforesaid, his ears shall be nailed to a pillory at Castletown cross, upon the next court of general gaol delivery, at twelve o'clock at noon, and there to remain for one hour, when his ears are to be cut off, and remain on the said pillory, and the offender to be returned to prison in Castle-Rushen, there to remain till the governor thinks proper to release him, on paying a fine, not exceeding fifty pounds, and abjuring this isle. And all marriages solemnized in any other place than a church, unless by a special licence as aforesaid, or that shall be solemnized without publication of banns, or licence from some person having authority to grant the same, shall be null and void, to all intents and purposes whatsoever, provided that all prosecutions for the said felony shall be commenced within three years after the offence committed, the offender residing or continuing in this isle during that period: And that it shall not be necessary, in support of marriages solemnized as aforesaid, to give any proof of the actual dwelling of the parties, in such parish where the banns were published: And if the marriage is by licence, it shall not

be necessary to give any proof, that the usual place of abode of one of the parties, for the space of three months, as aforesaid, was in the parish where such marriage was solemnized, nor shall any evidence be taken in either of the said cases, or be received to prove the contrary in any suit, touching the validity of such marriage.

And all marriages by licence, where either of the parties not being a widow or widower, shall be under the age of twenty-one years, which shall be had without the consent of the father of such party under age, if living, or the guardian or guardians of such party lawfully appointed, or one of them : And in case there be no such guardian, then of the mother, if living and unmarried, or if there be no mother living and unmarried, then of the guardian or guardians of the person, shall be absolutely null and void, to all intents and purposes whatsoever : And if the guardian or mother be not of sound mind, or beyond seas, or by unreasonable or undue motives be induced to abuse the trust aforesaid, by refusing consent to a proper marriage, any person so desirous of marrying, in any of the before mentioned cases, may apply by petition to the governor, who is empowered to proceed upon such petition in a summary way ; and in case the marriage proposed, shall, upon examination, appear to be proper, the governor shall judicially declare the same to be so, by order of court, which shall be as effectual as the consent of the mother or guardian. The church wardens from time to time, as there shall be occasion, shall provide proper books in each parish, in which all marriages, and banns of marriage there published and solemnized, shall be registered ; and every page thereof truly numbered, beginning at the second leaf ; and every page so numbered, shall be ruled with lines, at proper and equal distances. And all banns and marriages, published and solemnized in any parish church within this isle,

shall be written upon such lines, and signed by the minister, or some person in his presence, and by his direction : And such entries shall be made in successive order ; and all such books shall belong to such parish respectively, and shall be carefully preserved for public use. And all marriages shall be solemnized in the presence of two or more credible witnesses besides the minister ; and immediately after the celebration of every marriage, an entry thereof shall be made in such registry, in which it shall be expressed, that the marriage was celebrated by banns or licence ; and (if both or either of the parties married by licence be under age), with consent of parents or guardians, as the case may be, and shall be signed by the minister, with his proper addition, and also by the parties married, and attested by such two witnesses, with their proper additions, according to the form thereafter mentioned.

And if any person shall, with an intent to elude the force of this act, knowingly or wilfully insert, or cause to be inserted in such register book, any false entry of any matter or thing, relating to any marriage, or falsely make, alter, forge, or counterfeit any such registry, or assist therein, or utter, or publish as true, any such false, altered, forged, or counterfeited registry, or licence as aforesaid, or any copy thereof, knowing the same to be so ; or shall wilfully destroy, or cause to be destroyed, any such register book, or any part thereof, with an intent to avoid a marriage ; or to subject any person to any of the penalties of this act ; every person so offending, and being thereof lawfully convicted, shall be deemed and adjudged guilty of felony, and suffer death.

No vicar-general or surrogate, deputed by the bishop to grant licences of marriage as aforesaid, shall grant any such licence before he hath taken an oath before the bishop, faithfully to execute the same, according to law, to the best of his knowledge, and hath given security by his bond, in the sum of one hundred pounds, to



the said bishop, for the due execution thereof: and for such licence, and all other the necessary writings required by this act, in and about the same, such vicar-general or surrogate, shall and may lawfully demand and receive one British crown \*.

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*Master and Servant.*

ALL servants who do not give lawful warning to their masters or mistresses, to wit, men servants on Michaelmas-day, and women servants on Lady-day, and yet hire to another master or mistress, such hiring shall not be effectual in law, in case the former master or mistress prosecute to retain the servant for the same year.

And whereas complaints are made of servants hiring with two several masters or mistresses; It is therefore enacted, that the master or mistress first hiring lawfully, shall have the service of that year; and the master or mistress hiring secondly, to have the wages of such servant for the same year; which the said master is to pay quarterly to the other, or at any other time that the same shall be demanded from him: But if it be discovered and proved that the person making the second hiring knew of the first hiring, and yet made use of means to persuade and inveigle the servant to a second hiring; or if there be but strong presumption by circumstances of the like fraudulent usage, the servant shall get all his wages. But if the proof be only circumstantial, and the blame partly appear in the servant as well as the master, who ought to inquire and be satisfied with the servant's condition before he hires him; in such case the wages to be proportioned and allowed

\* A. T. 1767.

as the governor and deemsters, or either of them, shall think fit to order.

And if any servant hire oftener than twice in the year as aforesaid, such servant shall suffer exemplary punishment, by being whipped at the parish church where he or she lived, on some Sabbath day, or in some market place, at the whipping stocks, or otherwise (the servant's condition and age considered), to be imprisoned at the discretion of the governor and deemsters, and to have but one cake of bread and a portion of water each day, during such imprisonment, and afterwards to do service to the master who first lawfully hired him, and the wages to be distributed at the discretion of the governor or deemsters, or either of them. Provided if any fallacious dealing be discovered against the second or third master, either by proof or circumstantially, as mentioned before, then the same to be considered before the servant suffer punishment, and the wages to be distributed according to discretion aforesaid.

Servants who are wilful and refractory to their lawful masters, shall be punished by imprisonment, as the governor and deemsters shall appoint; until the said servants do yield obedience and perform their service; and to have such allowance of bread and water as aforesaid, which is to be deducted out of their wages by the master, who is to provide the same daily unto them. And the master to have an allowance out of their wages during the time of their imprisonment, to give another in his or her place, at the discretion of the deemsters.

Men servants hiring between Allhallowtide and Michaelmas, and women servants hiring between Lady-day and May-day, such hiring shall be as lawful as the hiring made formerly upon either of those days, provided they have given lawful warning on the usual days before mentioned; but that the earnest given on either of those days shall be reputed invalid to the hiring lawfully made between either of those festivals; and the warning given between sunrise and sunset, on the pro-

per days, shall be lawful. And in case the master or mistress happen to be from home on the said days, or absent themselves, to the end of taking advantage of the servant, by not being present to hear the warning given : or in case they be in any part of the house where the servant may not presume to go ; in such cases the servant to take a competent witness with him, and repair to the place where the master and mistress usually did sit, at the hearth, or at meat. And in case the door be made against the servant, then the servant and witness to come to the door where the master or mistress usually did enter into the fire house, and in any of those places give the usual warning, which shall be lawful warning : so if the servant be sick, or incapacitated to give warning in manner aforesaid, he may do the same by proxy, with a sufficient witness with him : and no hiring made before the warning day shall be authentic against the hiring lawfully made in manner herein before mentioned ; but the same to be made null and of no effect upon complaint and difference arising touching the hire so made as aforesaid.

And as for the frequent complaints of servants made by jurors, to know what diet and usage they ought to have, it is declared that such complaints shall be viewed and certified at the sight of four honest neighbours, who are to be charged to that end, by the coroner and lockman, and they to approve or disapprove of such diet and usage as near as may be to the custom of the country, or in that parish or particular house complained of. And in case the same be not observed afterwards, but the servant is further occasioned to complain ; in that case the master to give in sufficient security for the performance thereof, the remaining part of the year\*.

Whereas it is complained that the servants assume the liberty of absenting themselves frequently from their

service, on Sundays and holidays, without leave, it is therefore enacted, that if any servants do offend in like nature hereafter, upon any pretence whatever, without leave of their master or mistress, it shall be lawful for the master or mistress to deduct and detain twopence for every time so offending ; and if nevertheless such servants make a constant practice of it, then upon complaint of the master or mistress, such servants to be imprisoned, with the allowance of diet mentioned in the late act, with respect to refractory servants, and so to continue until they engage to become obedient and careful, according to the trust reposed in them ; and nevertheless the master or mistress to deduct and detain (if they please) twopence for every Sunday or holiday absenting as aforesaid, and so much out of their wages besides, as shall satisfy any person taken to perform the work of such servant, during the time of their confinement \*.

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### *Moar.*

It is use and custom of long time, that the moars pay two marks of office-silver, yearly, to the lord.

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### *Mortuary.*

If any do remove from one parish to another, and if the cock crow thrice, they remaining there three nights and three days after removing, that then the person departed shall pay all spiritual duties to that same church, within the same parish he hath removed unto †.

It is ordered, that no corpse-present shall hereafter

\* A. T. 1667.

† Spir. Cust. Laws.

be taken by the clergy or proctors of spiritual livings of any deceased's goods, under the value of 6l. 13s. 4d. and of that value, and under the value of 20l. they shall take but 20d. for the corpse-present: And if the goods be of the value of 40l. they shall take for the corpse-present but 3s. 4d. And out of goods of the value of 40l. or above, they shall take 6s. 8d. and no more, be the goods of what value they may: And that none shall pay a corpse-present, but such as at the time of his or her death, were housekeepers and masters of families: And that no infant, or child under the age of fourteen years, and no woman under covert baron, shall pay any corpse-present. And if any clergyman or proctor shall take more for a corpse-present, or otherwise than as aforesaid, he shall forfeit so much in value, as he shall take above the sum before limited, and also 6s. 8d. to the party grieved, to be recovered by action of debt, at the common law. But it shall be lawful for any spiritual person to take any sum, or other thing, which by any person dying, shall be given or bequeathed unto him\*.

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### *Non-Residence.*

EVERY bishop, archdeacon, parish vicar, curate, or other person, who hold and enjoy the bishoprick, archdeaconry, or any parsonage, vicarage, or curacy, or such like ecclesiastical promotion, to the value of 10l. per annum, or upwards; also, any temporal officer, soldier, or other person, having and enjoying any office, place, or other employment, from and under the lord of this isle, to the value of 3l. per annum, or upwards, shall hereafter inhabit, and personally reside within this isle, in and upon their respective livings, promotions, bene-

\* A. T. 1643.

fices, offices, places or other employments ; and if they, or any of them, shall, at any time be non-resident, or not inhabit within this isle, in or upon their said respective promotions, benefices, offices, places, or other employments, but shall be found wilfully to absent him or themselves, from his or their duties in the same, (wind, weather, health, and convenient shipping permitting), above the space of four months, to be accounted at several times, in any one year, commencing always upon the first of May, in every year : such person or persons so offending, shall, for the first offence, forfeit and lose the full value of one half year's profit, benefit, and advantage, of his or their said livings, promotions, benefices, offices, places, or other employments, to be collected, levied, and disposed of, in manner herein after-mentioned ; and if any person or persons before mentioned, be found to offend in like nature at any time afterwards, he or they so offending, shall, for every such second offence, and for every other offence of that nature, which he or they shall commit afterwards, forfeit and lose the full value of one whole year's profit, benefit, and advantage, of his or their said livings, promotions, benefices, offices, places, or other employments aforesaid, and be declared and made incapable of receiving any further benefit or advantage therefrom, until such time as he or they so offending, shall return to his or their said respective duties, as aforesaid. And it is further enacted, that all such forfeitures are, from time to time, as the same shall accrue, or happen to be taken or collected, by order of the governor, deputy-governor, and the lord's council, for the time being, directed to the coroner or coroners of the sheading or sheadings, where such forfeitures shall happen or accrue. And the same, when so levied, collected, and received, as aforesaid, to be applied and disposed of, for such pious, charitable, and public uses, within this isle, as the said governor, deputy-governor, and council, shall have di-

rections from the lord of this isle for, or concerning the same \*.

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### *Oath.*

It shall not be lawful for the ecclesiastical courts to tender, or administer unto any person, the oath commonly called the oath *ex officio*, or any other oath whereby such person may be charged or compelled to confess or accuse, or to purge himself of any criminal matter, whereby he may be liable to any censure or punishment: Provided that this shall not hinder the said courts from giving any oath to any person who shall come voluntarily, to clear his reputation with lawful compurgators as accustomed †.

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### *Officers.*

WHOSOEVER shall speak or accuse any scandalous speeches against any chief officer of the island, spiritual or temporal, or any of the twenty-four keys, touching their oaths, or the state and government, or any other scandalous speeches which might tend to the defamation of their offices and places, and be not able to prove it, shall be fined for every time so offending, in ten pounds, and their ears to be cut off for punishment besides ‡.

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### *Outlawry.*

If any person be indicted of felony, he shall be pro-

\* A. T. 1697.    † A. T. 1737.    ‡ A. T. 1601.

claimed and cried throughout the six sheadings, and at the Tynwald ; and the fourth court to be called by the moar of Glanfaba : And if any such persons so called, answer not, then upon the record of the six moars then present, having with them two witnesses, that they were called in the six sheadings, and appeared not, thereby upon proclamation to be outlawed, and shall not be outlawed without the lord's special grace and pardon. And if any man be foreigned in the lord's court, or any of the baron's courts, for death, or otherwise to forswear the land, he shall never come into the land again, without the lord's special grace and pardon : And whoever relieves or receives any person after that he is outlawed and foreigned, as it is recited, forfeiteth body and goods to the lord's pleasure : and if the bishop or abbot, or any other baron, receive an outlaw, without the lord's special grace and pardon, he forfeiteth his temporality to the lord\*.

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*Parish Clerk.*

EVERY parish hath the liberty to chuse their own clerk ; but the ordinary must accept, authorise and allow of him, to be sufficient and able for that office ; and in every time of visitation and other business, the parish to send for the clerk, and the clerk to go to the priest, and wait on him.

The clerk's standing wages is a groat out of every plough, if the plough plows but three furrows within the year ; and from those that have no ploughs, but keep smoak, a penny, annually.

The clerk shall have for every one that departeth this life, able to pay a whole corpse-present, one shilling and nine pence, or else his apparel, as was used in old

\* Ord. 1422.



**Times.** And for a woman, one shilling and fivepence, or else such duties as were used in old time. And for the poor, all debts being paid, to be reasonably agreed withal.

The clerk's silver, on the south side, is elevenpence, and the head penny of the which twelpence, the curate hath sevenpence, the parish clerk threepence, and the parson's clerk twopence; and upon the north side fifteenpence. And in case a poor person depart, and there is not wherewithal to pay the clerk's silver, then the clerk shall have no duty, but the duty to be sold to pay the head penny and clerk's silver. And if any thing want, the next of kin to make it good, because if the party were wealthy, and made no will, they should be his executors\*.

Whereas it is a complaint, that the lord of the island makes clerks of the parishes by his special grants, whereas the parishioners pay the clerk his dues, his lordship is graciously pleased that the parishioners, and parson or vicar of the parish shall have the nomination of the clerk, and the bishop to have the allowance or approbation of him for his sufficiency, and ability to perform the place†.

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### *Pinfold, or Pound.*

**WHOEVER** taketh any man's goods, and bringeth them to the pinfold, he shall send notice to him that owneth the beasts, to loose them: And the party that taketh the said goods must send to the owner, with convenient speed, knowing the owner; and the owner not being known, to be called at the parish church, on the next Sunday, or at the next market. If that then he will not do as aforesaid, to give the goods water once

\* Spir. Cust. Laws.

† A. T. 1649.

a day; and if they die, the owner can have no amends, for they are lost in his own default.

A halfpenny per foot for beasts impounded, to go one half to the lord, and the other half to the pinder\*.

The goods or cattle of any person trespassing on another man's ground, may be taken to the pinfold in the same parish, by the owner of the said ground, his family or servants giving the owner of such goods or cattle sufficient warning of the impounding thereof, to the intent that he may relieve the same†.

For all live goods impounded the owner is, before releasement, to pay a halfpenny per foot to the pinder or warden (whose fees are one half thereof,) and he is to account for the same every year at the debet court, that the lord's part thereof may be estreated.

The pinfolds in every parish are to be kept in repair at all times of the year, or in default thereof, the parishioners to be fined as heretofore accustomed; and the same to be presented by the great inquest, upon the proof or complaint of the pinder, or other lawful proof or complaint made; and the course of repairing the pinfold is to be according to the rule of repairing churchyards, which is done by the tenants of every treen, or division of the parish, doing their particular proportion. And it is ordered, that sufficient pinders or wardens, shall be nominated and sworn to deal truly therein; and to give a true account of the lord's fee, every year, and the oath to be administered by the deemsters, or by the coroner or lockman, before the four members of the great inquest of the parish: And in case the pinder be negligent in his office, he is to be fined and punished, and removed from his office, and another placed in his stead, as aforesaid; whose election is to be by the captain and the four of the great inquest of the parish, as they shall find just cause for his

\* Temp. Cust. Laws, 1577.      † Ordinance, 1583.

honesty and ability, and convenient living near the pinfold. And in respect that one pinfold in a parish is too few, every parish is at liberty to erect another at their own charges, which is to be used in the same manner as the ancient pinfold, to all intents and purposes \*.

It shall be lawful for the governor, at his discretion, upon application made to him by the farmers or tenants of any of the treens, within the several parishes, to give licence to any, or as many of them as he shall think fit, to erect, at their own charges, one pinfold, in the most commodious place in the said treen, provided that yearly at the sheading court, to be held for that parish, after Michaelmas, a sufficient pinder be sworn; and every such licence is to be first enrolled in the comptroller's office †.

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### *Prison.*

If any person shall be found, and lawfully convicted of receiving any malefactor, aiding and assisting to break, or make his escape out of gaol, such person or persons so offending, shall forfeit the sum of twenty pounds to the lord of this isle: And whosoever shall be found and convicted of being any way active in conveying and carrying any malefactor off the island, or aiding and assisting him in his escape, agreeing with a vessel, carrying messages, or the like, such offender or offenders shall be fined in any sum, not exceeding ten pounds, to the lord, besides three months imprisonment: And whosoever shall rescue any person imprisoned, or in execution for debt, or be hereafter found, directly or indirectly, concerned in aiding or assisting any debtor to escape out of gaol, or to get off the island, or in privately conveying or carrying off any person in-

\* A. T. 1665.

† A. T. 1705.

debted within this island, such persons, upon proof made thereof, shall be liable to pay all the debts which such debtor owed in the island, at the time of his departure, besides a fine to the lord, not exceeding three pounds : but in case such persons so offending as aforesaid, have not effects to discharge the said debts, then they shall be whipped in the four market towns, besides three months imprisonment : And if any goods can be found, the same to be applied towards the payment of the said debts, as far as they will extend \*.

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*Rent.*

No goods or chattels of tenants, being in any house or houses, or upon any lands or tenements let for life, or for one or more years, or otherwise, shall be taken by virtue of any execution, or extended, unless the party at whose suit the execution is sued, do, before the removal of such goods, pay the landlord one year's rent, if not already paid him ; and then the party may proceed to execute his judgment; and the coroner or other proper officer concerned to execute the same, is to levy and pay the plaintiff, as well the money so paid for rent, as the execution money and charges. And if any lessee, or tenant, shall fraudulently or clandestinely convey, assign, or carry off, or suffer to be carried off, his goods from the demised premises, with intent to prevent the landlord from distraining for his rent, the said landlord, or any person by him employed, may, within fourteen days after his rent becomes due, take and seize such goods wherever they shall be found, as a distress for his arrear of rent, and dispose of, and sell the same, as if such goods had been actually distrained upon the demised premises ; nor shall any sale

\* A. T. 1737.

or assignment of a lessee, or tenant's goods, though for a valuable consideration, be deemed good against the landlord's preference for one year's rent, unless there are goods left sufficient to pay the same: Provided that this act shall not prejudice the Lord of the island in levying his rents, debts, fines, forfeitures, or other rights or demands due to him, preferable to all others, as if this act had never been made; and if the tenant's goods should be removed any considerable time before the rent becomes due, whereby they might be secreted or made away, or clandestinely conveyed off the island to prevent the landlord from distraining, it shall in that case be lawful for the landlord to obtain the deemster's authority to lay them under an arrest, to be forthcoming for the rent, unless the person that removes them will give security to pay the rent when the same becomes payable \*.

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### *Salt.*

It shall not be lawful for the master or mariners of any vessel, or boat, on any account or pretence whatever, to carry off this island, or export from hence into any part of Great Britain, any quantity of salt exceeding two bushels, for the ship's store, under penalty that the master, or any of the mariners of such vessel, or boat, so carrying off the said salt, or any other person, or persons, aiding or assisting therein, and lawfully convicted thereof, shall suffer three months imprisonment, and forfeit the sum of thirty pounds, two third parts thereof to the use of the lord of the island, and the other third part to the informer †.

\* A. T. 1753.

† A. T. 1726.

*Seizures.*

WHEN any forfeit is seized within full-sea-mark, by any of the officers, to the lord's use, the same to be certified to the captain, with speed, and then he to call the officers and deemsters, and to commune and consult how it was seized ; and if the captain and officers find the same lawful, then the comptroller to enter the same in his book of records, as well as the water-bailiff, not only the parcels, but also the day and year of the seizure, and the same to be appraised by four substantial men ; so that if the same be claimed by any person, or persons, they may have the law of the island, or the value thereof, if the party come within a year and a day : and if the said officers take the goods to be clear forfeited, then they cause the same to be sold and converted to the lord's profit, in the water-bailiff's account \*.

*Shooting.*

It is enacted, that none shall hereafter presume to carry about a gun to fowl, shoot, kill, or destroy the lord's game, without the governor's licence in writing, first had for the same, upon pain of forfeiting three pounds ; one half to the lord, and the other half to the person informing against, or presenting the offence in manner hereafter directed by this act. And for the better discovery of such as shall transgress herein, it is further enacted, that the method of proceeding upon this act, shall be by information upon oath, or presentment made unto the court, by a jury of inquiry of four men, to be impanelled and sworn in every parish, yearly, after midsummer, by the respective coroners, to inquire of, and jointly or severally make presentments in the premises, as occasion shall require, in which they

\* Ord. 1561.

shall use their utmost diligence, as they will avoid a fine of five shillings a-piece for every default or neglect ; and that the coroners and lockmen are also hereby obliged to inquire of and make informations or presentments against contemnors of this act ; and if any of them shall be found to fail therein, they shall be fined at the court's discretion, for every default or neglect, and that it shall be lawful for all others, as well as those already mentioned, to make informations on this act ; and that upon every such information upon oath, and presentment made, the offender, or offenders, being first heard, shall be condemned by the judgment of the court in the penalty before mentioned ; and that the jury, or any of them, presenting, or any coroner or lockman obliged to give informations, or make presentments as aforesaid, shall be entitled to the moiety of the forfeiture, as any private persons should or could be by virtue of this act : And that none shall carry about their guns, to shoot pigeons, partridges, or grouse, under the penalty of twenty shillings, on proof or presentment made thereof in manner before mentioned \*.

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### *Slander.*

It is ordained, that after slanderers or defamers are found guilty, either in the temporal or spiritual court, as the matter shall be properly cognizable, the person slandered shall not only recover his costs by action at law, but also such further damages as shall be suitable to the injury sustained, and the ability of the defamer †.

In all complaints of slanderous words, the party defamed, or any informer of a slander, shall be obliged to make a declaration of the slanderous words before a proper judge or magistrate, within fifteen days after the

\* A. T. 1748.

† A. T. 1737.

speaking or uttering the same, in order to a prosecution; otherwise, such complaints of slander, not to proceed at any time afterwards \*.

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*Specialty.*

It shall not be lawful for the courts or magistrates of this isle, or any of them, to admit of any obligator or party defendant's oath, as evidence against any bill, bond, note, or other specialty in writing, to acquit himself from the payment thereof, otherwise than by a proper receipt or discharge for the same †.

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*Streets.*

ALL pavements in the several streets in the market-towns, shall be even and regularly paved to the middle of the street, by the several inhabitants or proprietors adjoining the same, within one month from the passing of this act. And that the said streets, and the pavements thereof, shall, by order of the captain once a week, be swept clean by the said inhabitants or proprietors, and remain clear of and from all dung, filth, lumber, rubbish, or other nuisance whatsoever. And in case any of the inhabitants or proprietors aforesaid, shall make default or neglect herein, the captain of such town shall make presentment thereof. And such inhabitants shall, upon conviction before the governor, lieutenant-governor, or a deemster, be fined ten shillings, with costs: And in case any captain or captains of towns shall neglect to make such presentment, he or they shall, upon conviction as aforesaid, be fined in the sum of ten shillings for every such neglect; one half to the informer, and the other half to be applied as herein after directed. And if any person shall permit

\* Ibid. 1738.

† A. T. 1738.



or suffer his or her pigs to go at large through the said streets, and be convicted thereof, as aforesaid, by the testimony of one witness, the owner or owners shall be amerced in the sum of one shilling and twopence for each and every such pig so let to go at large through the said streets, as aforesaid, with costs, which ameracements shall be levied as herein before directed, and applied towards the improvement of the market-place of such town wherein the same shall be levied, as aforesaid \*.

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### *Sumner.*

WHEREAS the sumner, parson, and clerk, take pains in gathering tithe wool and lambs, having with them a horse a piece and a sack, then each of them to have one choice lamb, and one fleece of wool, paid out of the tithe; and as touching the sumner's duty of corn, he must have a band of three lengths, of three principal corns, portion like, paid from every husbandman; and he must call within the church, with the advice of the vicar or curate, all such things as he is requested of the parish, that are gone or lost; and also, stand at the chancel door, in time of service, to beat the dogs out.

Also, when the sumner is required by the ordinary to bring any offender to prison, he hath for his pains fourpence, and likewise the porter fourpence of the same offender; and when any is disobedient to the sumner and ordinary, then the ordinary hath been used to send to the constable of Peel, who presently ought to send a soldier to take him to the bishop's prison †.

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### *Sumner-General.*

WHEN the ordinary sends a citation abroad for the

\* A. T. 1776.

† Spir. Cust. Laws.

keeping courts, chapters, or other weighty matters, the ordinary to send to the general sumner, and he to send them with speed abroad\*.

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*Sunday.*

If any person pay or receive money on a Sunday, he shall be liable to ecclesiastical censures, and always be presented for the same†.

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*Tithes.*

By an ordinance of Charles, Earl of Derby, lord of the isle, in the year 1667, "all persons within his isle of Man, who should thereafter clear and improve waste lands, shall be tithe free for the first three years: And by the 28th customary law, lands newly broken up, that never before were under corn, shall be exempted from the payment of tithes for the term of three years."

By the following spiritual customary laws it is ordained, that "tithe corn shall be received by the tenth stook, and for carrying it away, the parson or proctor is at liberty to carry it the next way, keeping the husbandman harmless, making the ditch as able as he found it.

No husbandman to lead any corn or hay before sufficient warning be given to the parson, vicar, or proctor, when the corn and hay are sufficiently dry, and fit to be stacked.

And if any man convey, purloin, or hide any corn in houses or elsewhere, to defraud the tithes, then the par-

\* Spir. Cust. Laws.

† A. T. 1703.

son, vicar, or proctor, to be restored threefold. But in case he want to thresh any corn for necessity, then to take with him two honest men, who will testify the tithe thereof to be truly paid.

And if any do lead or stack their corn in contumacy, or not agreeing with the parson, vicar, or proctor, for the tithe thereof, then the sumner, at the appointment of the ordinary, with two honest men or more, to cast down the stacks, and take forth their tithes; and the husbandman to make good the charges, for casting down the stacks, and making them up again, and further to be punished at the discretion of the ordinary. All tithe flax and hemp to be brought to the parish church, and the seed thereof.

Every one to bring unto their folds, all their sheep and lambs at such time as the parson, vicar or proctor, shall appoint, either in the latter end of May, or else in June; to pay truly their tithe lamb and wool, that is to say, out of eight, one lamb, and so out of nine, ten or twelve, but one lamb; provided if the husbandman pay one lamb or more, he shall have the choice of two lambs, and then the proctor where he pleaseth of the rest.

If the husbandman hath but five lambs, then he shall choose one lamb, and the next to the best the proctor shall appraise, and the husbandman shall give or take, and if there be but two or three lambs, then to pay a halfpenny each: and any that hath wild sheep or lambs, that cannot be brought into the fold, then the proctor hath been used to depose them upon a book, what wool and lambs they may have, and so to pay truly the tithe thereof.

And whoever doth convey or hide his lambs, from place to place, or from parish to parish, to deceive the church, then restitution to be made threefold.

That all proctors ought, at Martinmas, to put in a book all small tithes within the parishes, that is to say, purs, calves, and colts, and to receive them from the

husbandman at Easter; and out of eight, nine, or ten, one pur; and out of twelve, but one pur; and in like manner of calves and colts; provided always, that the husbandman shall choose one or two out of the whole of the best, when he payeth one or more purs, calves, or colts.

Also, when any man hath but five purs, calves, or colts, then the husbandman shall have one choice, and then the proctor to praise the next, and the husbandman to take or give: And if the husbandman hath but three calves, he shall pay out of every one a halfpenny, and out of three colts threepence.

Whereas the proctor hath not had of six or seven lambs but half a lamb, then he may take out of the four lambs, a half; in like manner of purs, calves, and colts.

Concerning tithe geese, they are to be taken after the same order, and most commonly taken in the month of December; and as for tithe eggs, they are to be taken at Easter, and are the beginning of the annual fruits next ensuing; for every hen one egg, and for the only cock two eggs.

Also, concerning honey and tithe wax, if there be eight, nine, or ten hives, of that year, then the husbandman shall have two choices, or out of twelve, and the proctor shall have the third choice hive for tithe; and if in case there be but five hives, the husbandman shall have one choice, and the proctor to appraise the next, and the husbandman to give or take; but when there is but two or three hives, then after the honey and wax are purified, they shall take the tithe thereof, justly and truly; whereas the proctor hath not had out of six or seven hives, but half a hive, then he may take out of four hives, half a hive: And whereas parsons and proctors having tithes that are far off, and cannot conveniently bring them home, it hath been accustomed to draw and stack the same in the husbandman's hayyard, without trouble or let.

No tithe butter, or cheese shall be paid hereafter ; but in lieu thereof, the farmers and others who ought to pay such, shall, at Easter, when they account for their other duties to the church, pay fourpence for every cow which had a calf that year, and twopence for every farrow cow which had no calf, but gave milk since the Easter before ; and a penny out of every four milch sheep ; and a penny out of every two milch goats. And the vicars of third and pension, who used to have a choice cheese, to have, in lieu thereof, the monies due for the tithe cheese and butter, of a choice house in the parish.

The parson, vicar, and proctor of every parish, shall acquaint the several farmers of the parishes with the names of their under proctors, or deputies, who are to receive the tithes. And this to be done in the month of July, before the harvest begins ; and when the time of harvest is come, the farmer is to send notice to him or them, who are to receive the tithe corn, the evening or day before such farmer intends to lead his corn ; and then if the parson, vicar, or proctor, or the under proctor, come not to take the tithe corn according to the warning so given, the farmer is to take two neighbours to justify with him, that he hath left his due tithe : such warning to be given at the parsonage, vicarage, or proctor's house, who is to receive the tithes, if there be any such in the parish. And if it be a stranger of another parish, or a layman of the same parish, such stranger or layman shall, before the time of harvest, acquaint the farmer at what house in the same parish the farmer shall give or leave such notice, that his corn is ready for leading, or that he intends to lead the same ; and the like order to be observed for tithe hay.

The minister, or proctor, to whom the small tithes and offering money belong, shall sit in the parish church, on Monday and Tuesday in Easter week, after the people have received the communion, there to receive

their dues; and whoever shall not pay the same on one of those days, the minister and proctor shall proceed against them by citation, before the ordinary or his officers; and that in such cases the minister and proctor shall have the speediest and strictest course that may be, from the ordinary, for the recovery thereof."

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*Tradesman.*

TRADESMEN and labourers labouring by the day, shall, from the twenty-fifth of March to the 29th of September, come to their work by six o'clock in the morning, and not leave off, or give over work until six o'clock in the afternoon; and from the 29th of September to the 25th of March, to come to work at sunrise, and not to give over till sunset, except it be tailors and shoemakers, who work with meat and drink by the day, they are to work till eight o'clock both winter and summer\*.

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*Traverse.*

No traverse shall be accepted of, unless the same be entered within the space of twenty-one days after the giving in of the verdict, and the party traversing shall prosecute the same so as to bring the traverse jury to a verdict within the time limited; otherwise it shall be lawful for the court to nonsuit him, and to charge the fine to the lord's use, if there appear not good cause to the court to mitigate the same: Provided if it happens and doth appear that the same fell out upon some extraordinary occasion, either in respect of sickness, in-

\* A. T. 1691.

sanity, or other lawful impediment, then it shall be lawful for the governor, or either deemster, to grant a further respite of time, at discretion; and this rule to be held in every degree of traverse\*.

In case any party finding himself aggrieved by the verdict of the first jury, should enter a traverse within the time already limited by law, such person or persons shall hereafter be obliged to prosecute the same with effect, so as to bring the traverse jury to a verdict, within the space of three months from such entry, except the governor or either deemster, shall, upon lawful cause shewn, grant further time, not exceeding three months longer; but not to suffer any wilful or unnecessary delays in any cause, or upon any account whatever†.

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### *Treasure-Trove.*

ANY treasure whatsoever, being found and secretly hidden under ground, either in the house or out in the fields, or in the thatch of the house, or within any covert place, to the end to defraud the right heir, or for any other fraudulent purposes, shall be the lord's as his prerogative: Provided that any man, for the safeguard of his goods from the enemy, or from any other mischance, may, without danger of this law, lay up his treasure in any such place, making his child or other friend privy thereto: and such child or friend may lawfully receive such treasure, and deliver the same to the right owner; and that the party claiming be able to prove it by one sufficient witness at the least, though he be brother, sister, or any other kinsman, or friend, not detected of any notorious crimes‡.

\* A. T. 1665.

† Ibid. 1797.

‡ Ord. 1583.

*Trespass Act.*

It is enacted, that hereafter, in all complaints of petit larceny, or trespass whatsoever, clandestinely committed by persons, horses, sheep, or other cattle unknown, the party complainant may apply to, and it shall be lawful for the governor, deemsters, or other magistrates of this isle, who have jurisdiction of inquiry, as it appertains unto them in their several stations, to grant the said party injured a process to the proper officer, for a jury of inquiry, to inquire of, and discover the offender, or offenders, who did the fact complained of, by examination upon oath, in manner following : That is to say, upon such complaints of petty larceny, in all things left to the valuation of a jury, by the statute made in the year 1629, and other instances of such like nature, the method of proceeding shall be, and shall be understood to be, that all suspected persons and others, who shall be summoned to the jury of inquiry, (which in that case is to consist of six men,) shall be examined upon oath, and shall be obliged to give their oaths in relation to the committing of the fact inquired of, either by themselves or others. And if any person or persons, conscious of his or their own guilt, shall wilfully refuse to give such satisfaction upon oath, for the discovery of the offenders, he or they so refusing shall be held as guilty of the fact : or if the larceny, upon inquiry, shall happen to be found by the jury, in either case they shall verdict and leave the offender, or offenders, to be fined and punished at the discretion of the court. Provided always, and be it further enacted, that if the larceny in question, shall appear, or turn out to be grand larceny to the amount of sixpence-halfpenny, by the valuation of the jury, the same jury shall then proceed by way of inquisition for felony, and upon proof, confession, strong presumption, or suspicion, supported by good and pre-



vailing circumstances, shall indict the offender according to the common course of law, and the oath at first given them shall be to the tenor, effect, and purpose of this act, any thing contained in the said statute of the year 1629, or any other law or custom to the contrary notwithstanding.

And in complaints of trespass of the nature aforesaid, all suspected persons and others, and all owners of horses, sheep, or other cattle, summoned or charged to the jury of inquiry, (which in that case is to consist of four men), shall, and are hereby obliged to give their oaths in like manner, for the discovery of the trespassers who committed the trespass complained of, whether it be by themselves, or others, or by their own horses, sheep, or cattle, or those of others; and if any refuse, he or they so refusing, shall be deemed guilty thereof. Or if the trespass be found by the jury, they shall verdict, and in either case leave the offenders to the discretion of the court, to be fined with damages of four times the value to the party injured, estimating the same to the full worth, at their peril; provided always, and be it further enacted, that if the complaint be for cutting, spoiling, or destroying any tree, or plantation of trees, or any set, plant, or graft, or for throwing down, or breaking into, any inclosure or inclosures, with or by their cattle, horses, or other goods, by night or by day, or other wilful trespass; or if any person or persons shall, on purpose, or by want of due and proper care, suffer their cattle, horses, or other goods, to stray or wander out in the highway, or other place, in the night time, whereby they become trespassers on their neighbours; or if any other secret or unconscionable trespass or trespasses shall be done or committed (in all which cases the suspected offender or offenders, if thereunto required, shall be obliged to give oath, as aforesaid), then such offender shall not only incur a severe fine to the lord; but shall also for every tree, set, plant, or graft, so cut, spoiled, or destroyed, pay the party injured twenty shil.

lings, for extraordinary damage, and ten shillings extraordinary damage, for every such other clandestine or wilful trespass so committed as aforesaid, over and besides the fourfold damages abovementioned : Provided that every person or persons who shall maim, or otherwise maliciously hurt cattle or other live goods, be proceeded against by process of inquiry by a jury as before ; and upon proof, confession, or refusal, to clear themselves upon oath of the fact, it shall be lawful for the jury to find the offender or offenders guilty, and to leave him, her, or them, to the court's mercy for a fine and punishment, as formerly, with fourfold damages to the party aggrieved, as before directed by this act. And be it further enacted by the authority aforesaid, that all and every the damages before mentioned shall be recoverable by execution, from the judge, court, or magistrate concerned, upon sight of a copy of the verdict from record, and levied by way of distress of the goods and chattels of the offenders, without farther suit or action. Provided nevertheless, that any person finding himself aggrieved, may be allowed to traverse such juries' verdicts, according to the accustomed course of proceeding in such cases \*.

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*Vagrant.*

THAT Irish women, loitering and not working, be commanded forth off this isle, with as much convenient speed as may be ; and no boat be suffered to bring any of the said loitering persons into the said isle, but that the master of the said boat, upon pain of forfeiture of his boat and goods, after warning given, take the said persons off again †.

\* A. T. 1753.

† 1561.

*Verdict.*

It is enacted, that the verdicts of all great inquests, setting quests, and slander juries, shall, for the time to come, be delivered and received in the presence of both parties, or their agents or attornies in public court, as anciently accustomed, or by the proper magistrate or magistrates out of court, but that to be likewise made known unto, and done in the presence of the parties, or their agents or attornies, who for that purpose are to attend at the courts as well as before such magistrates, when such verdicts are to be taken to make their objections, if they have any, otherwise the same to be received, and the proceedings to go on, in his or their default \*.

*Usury.*

No person upon any contract, shall take, directly or indirectly, for loan of money, wares, merchandize, or other commodities, or for any corrupt loan, exchange, bargain, mortgage, or any other deceitful way or means, or other doings whatsoever, above the value of six pounds, for the forbearance of an hundred pounds for a year; and so after that rate for a greater or lesser sum, or for a longer or shorter time: and that all bonds, contracts, or assurances whatsoever, for payment of any principal or money, to be lent or covenanted to be performed upon or for any usury, whereupon or whereby there shall be reserved a greater interest than aforesaid, shall be utterly void. And if any person shall do any act or thing contrary to the tenor of this act, he shall

\* A. T. 1737.

forfeit for every such offence to the lord of the isle, or the treble value of the monies, wares, merchandize, or other thing lent, bargained, sold or exchanged \*.

### *Watch and Ward.*

WATCH and ward shall be kept throughout the land, as it ought, upon pain of life and limb ; for whosoever faileth any night in his ward, forfeiteth a weather to the warden ; and to the warden the second night, a cow ; and the third night life and limb.

[Which is afterwards, upon a question put thereon, by the governot, to the deemsters and keys, thus explained.]

If any party fail, and do not come to his watch, and the warden do appoint another in his room, to forfeit according to this statute.

Watch and ward upon the ports and seacoasts to be well and duly kept, and whosoever fails, he forfeits all his goods unto the lord, and his body at the lord's will.

[Which upon a question put thereon by the governor to the deemsters and keys, is thus explained:]

If the party be in the place whereat he should watch, and after the watch set, go away before the ordinary time without consent of the warden, to forfeit body and goods to the lord.

If the wardens do not their duty according to the captain's direction, they are to be punished at his discretion.

There is no forfeiture to the warden unless he appoint one instead of another. All other forfeitures are to the lord.

Watch and ward shall be kept according to the strict order of law, and none shall be sent thither, but such as are of discretion, and able to observe to be careful : and the night-watch shall come at sun-set, and not depart before sun-rise ; and the day-watch come at sun-rise, and not depart before sun-set \*.

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### *Ways.*

WHEN a man comes to the deemster to complain that he wants a highway from his house to the king's highway, he ought to drive as far as he may upon his own ground, and then he ought to have a way upon his neighbour, and that ought to be eighteen feet broad : and if his own ground come to the highway, he can have none of his neighbour's ; for although he wanteth the nearest way, he ought not to have it but in that order †.

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### *Weights and Measures.*

ALL weights and measures used for buying or selling in this island, shall be according to the standard of his Majesty's exchequer in England, and a standard thereof shall be kept at Castle Rushen, by the regulator of weights and measures ; who shall be appointed by the governor ; and sets of the like weights and measures shall be delivered to, and kept by the high bailiffs, in their respective districts : And all weights and measures used within such districts, shall be compared and regulated thereby, and stamped by such high-bailiffs ; for each of which so compared and stamped, the high-

\* Ord. 1594.

† Cust. Laws, 1577.

bailiffs shall take the fee of one penny. And each high-bailiff, with the assistance of one or more petit constables, is required to inspect the weights and measures made use of in his district from time to time, four times in the year, at least. And in case any person shall make use of any weight or measure, not stamped as aforesaid, or any weight or measure, which shall, upon examination, be found deficient, according to the standard aforesaid, such weights or measures shall be forthwith renewed, or broken and destroyed. The offender and the offence shall be reported in writing, by the said high-bailiff, to the said regulator, and the person or persons offending, by using such unlawful or defective weights or measures, shall thereupon severally forfeit for the first offence the sum of ten shillings and for the second offence twenty shillings, and for the third offence three pounds; and for every offence thereafter, such offender or offenders shall severally be subject to a fine not exceeding the sum of five pounds, or imprisonment, not exceeding one month, which said several forfeitures or fines shall, by order of the governor, or lieutenant-governor for the time being, be forthwith levied by execution and distress, and paid into the hands of the said regulator of weights and measures, and be by him distributed among such high-bailiffs, petit constables, and others, employed in the carrying of this clause of the act effectually into execution, in such manner, shares, and proportions, as the governor of this isle, for the time being, shall for that purpose direct and appoint. And the said regulator of weights and measures is hereby required to keep a book, and make entries therein of all proceedings and transactions which shall occur in his department, as aforesaid, for the examination and inspection of all and every person and persons whom it shall or may concern\*.

\* A. T. 1777.

*Whales.*

If any porpus, sturgeon, or whale, be taken within the heads of Man, they be the lord's by his prerogative\*.

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*Will.*

If any make their testament, and leave not sixpence legacy unto their children unmarried, legitimately begotten, or the value thereof, then the ordinary may lawfully make him or her executors with the rest.

If there be any man or woman that mislike their children's behaviour, the parties making their will before sufficient witnesses, if they do bequeath to their said children but sixpence, they can claim no more for their child's part of goods†.

It is ordered, that the probate of every will and making decrees of deceedents' goods, shall be fully performed and effected within the time and space of three months next after the decease of the party, upon pain of fine and severe punishment on the parties that shall fail, after due and lawful notice, and summons given, by the officers of the spiritual court, appointed in such matters; and therefore, that spiritual officers take special care for the observance of this order‡.

It is enacted, that no nuncupative will shall be valid whereby lands are devised, or personal estates bequeathed, that are not proved by the oaths of two witnesses, at the least, who were present at the making thereof; and that the testator at the time of pronouncing the same, being of sound and disposing mind, memory, and

\* Ord. 1422.

† 1577.

‡ A. T. 1665.

understanding, did bid the persons present, or some of them, bear witness that such was his will, or to that effect : And that six months after the testator's speaking the pretended testamentary words, no testimony shall be received to prove any nuncupative will, except the said testamentary words, or the substance thereof, were committed to writing, within ten days after the making and publishing of the said will ; and that no letters testamentary, or probate of any nuncupative will, shall be granted by the court, till fourteen days at the least after the decease of the testator be fully expired. Nor shall any will whatever be at any time received, unless notice has been given to call in the widow, relict, or next of kindred, to the end that they may object, if they please : nor shall any will in writing, concerning any goods or chattels, real or personal, be revoked or altered, in the whole, or in part, by any nuncupative will, except the same be, in the lifetime of the testator, committed to writing, and read to him, or her, and allowed or approved of ; and so proved by the oaths of two witnesses at the least \*.

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### *Wreck.*

IF any vessel or ship, or other goods, be imbayed within the heads of Man, above water, or under water, they are the lord's by his prerogative.

\* A. T. 1777.



*A Confirmation of the Churches, Lands, and Liberties, given, granted, and made, by the most noble Lord, Thomas, Earl of Derby, Lord Stanley, and King and Lord of the Island of Mann, and of the Islands, to Huan, Bishop of Sodor, and to his Successors.*

THOMAS, by the grace of God King of Mann and of the islands, Earl Derby and Lord Stanley, wishes eternal salvation in the Lord to all the sons of our Holy Mother the Church, who shall read or hear these letters. We make known to your community, that we, for the salvation of our own soul, and of the souls of our predecessors, and of all the faithful departed, have given and granted to our beloved in Christ, the Reverend Father and Lord in Christ, Lord Huan, by divine permission now Bishop of Sodor, as a free and perpetual provision for his episcopal table, all the churches, lands, tithes, and possessions, which our predecessors, the Kings and Lords of Mann, have given, granted and confirmed to the church and bishoprick of Sodor; to wit, the cathedral church of St German, in Holme, called Sodor or Pile, and the church of St Patrick, as also the forementioned place, in which the forementioned churches are situate, as also the church of St Bradan; and the churches of St Patrick of Jurby, with the church of St Crocœ, with all and every the tithes, first fruits, fruits, emoluments, revenues, liberties, commodities, and every thing thereunto appertaining; and a third part of the tithes of all the churches of Mann, confirming besides to them the third of the whole town of Kirkby, near the church of St Bradan, with the lands of St Bradan; and a third of the whole town of Kirk Marown, the lands of Cutherty, of Glanfaba, of Folyseydn, of Balla, of Mary, of the Staff

of St Patrick, and of Holinetown, with the fisheries, [braciniis,] customs, anchorages, and [vertenariis;] the third of the bailiwick of Knockcroke, and of Ballibrusle, of Jurby, of Balicane, of Bretby, and of Ramsey : Also the lands of the church of the Holy Trinity, in Leazre, of St Mary of Ballaugh, of St Maughald, and of St Michael adjacent, and the whole of the land of St Collumba, called Here : As also the liberties of every kind formerly granted to the same church, their own jurisdiction of life and limb, theft, murder, and all crimes ; and that they may have power of imprisoning, and of releasing the imprisoned, and of a cross or gibbet on their own lands : And that both the clergy and laity, who reside upon episcopal farms or tenements, plead and answer suits in the court of the Lord Bishop, at the ecclesiastical bar ; and that they be free from all services, secular exaction, and demand and forfeiture, or fine : And if any cause be decided betwixt our men and the men of the forementioned bishop, or of our successors, let the person fined for the offence follow the decision of the court. We have also given, and do confirm to the same bishop, all manner of sea-wreck and land, accruing to the bishop and his successors, through Mann, together with the village of Kircriest, near Ramsay, entirely, with the clerical and lay [braciniis,] and other appurtenances, without any reserve, with one moiety of the fishery in Mirescogh. And that the same bishop, his successors, the clergy, and farmers of the episcopal revenues, have free power to sell and dispose of their tithes, and other property of the clergy and laity, dwelling on ecclesiastical lands, whenever they shall deem proper, both in and out of our land of Mann, without our gainsaying, or that of our heirs or successors. As also the mines of lead or iron, which he may discover in any of his lands in Mann, so to be had, held, and possessed by the aforesaid Huan, and his successors, the bishops of Mann, for ever, as freely, quietly, and honourably as any

other provision, that has ever been conferred and appropriated to any episcopal table, by any kings or lords whatsoever, to continue to the end of time. In witness whereof, we have caused these presents to be sealed with our seal. Given at Lathom, on the twenty-eighth day of March, and in the year of our Lord one thousand five hundred and five.

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## ADDENDA.

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### *Of the Money, Weights, Measures, &c. of the Isle of Man.*

THE currency of the island varies from that of Great Britain. The Manks pound, which is the money integer, consists of the same subdivisions into shillings, pence, and farthings, as the pound sterling. A British shilling is equal to fourteenpence Manks currency, and one pound three shillings and four pence of this currency is equivalent to one pound sterling, therefore all negotiations for money, if intended to be like the British must be so expressed, otherwise Manks currency is understood.

The Manks WEIGHTS and MEASURES of every denomination (it has already been observed, page 228 *et seq.*) are precisely the same as those of England.

The ~~LEGAL~~ RATE OF INTEREST in the isle of Man, (as has been noticed under the title Usury, page 226,) is six per centum per annum.

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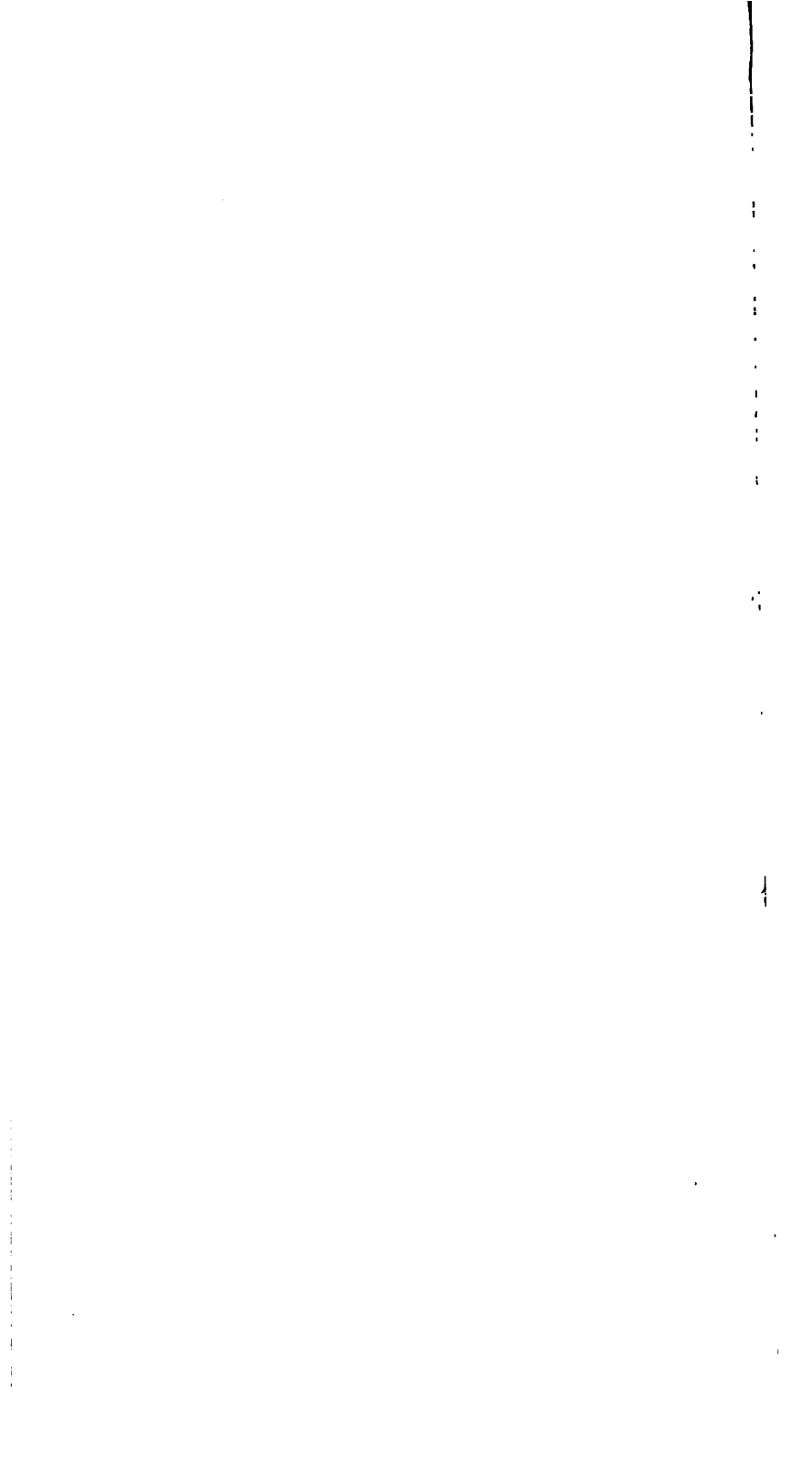
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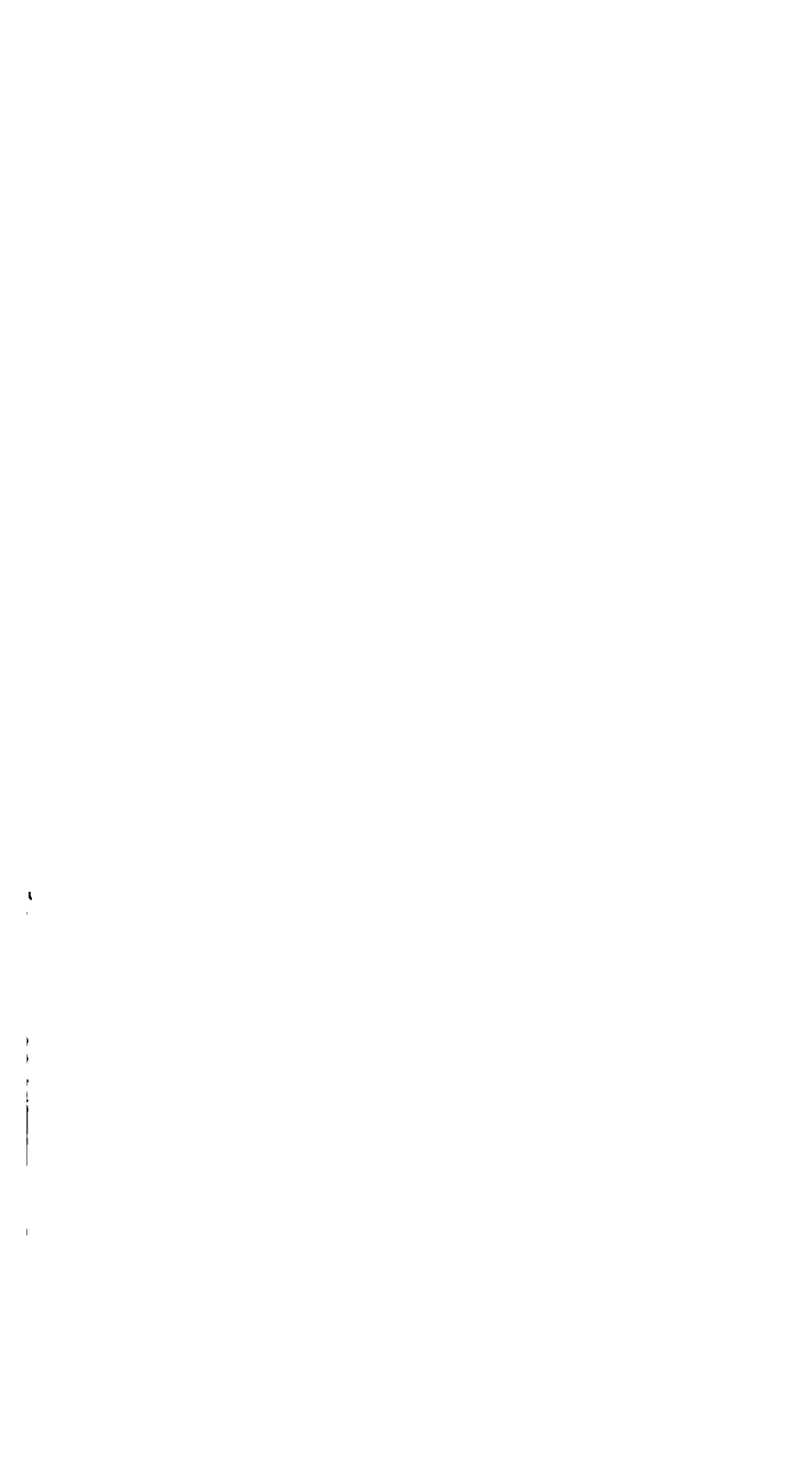
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